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House of Representatives

Bill file

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

I Thessalonians 5: 21: *Prove all things; hold fast that which is good.*

Most merciful and gracious God, may Thy servants daily sense Thy presence and power in this Chamber as they seek to discharge their duties and responsibilities with wisdom and understanding, with fidelity and fortitude.

We humbly beseech Thee that when moods of anxiety and doubt lay hold upon us we may be assured that Thou wilt strengthen and guide us in our efforts and endeavors to safeguard our heritage of freedom and share it with all mankind.

Show us how we may be channels of inspiration and instruments of help and hope to all who are longing and laboring for the dawning of that brighter and better day when a nobler and more magnanimous spirit shall rule the mind of man and all nations shall follow the ways of reason and righteousness.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8147. An act to amend the tariff schedules of the United States with respect to the exemption from duty for returning residents, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD of Virginia, Mr. LONG of Louisiana, Mr. SMATHERS, Mr. CARLSON, and Mr. MORTON to be the conferees on the part of the Senate.

REREFERRAL OF SENATE JOINT RESOLUTION 1 TO COMMITTEE ON CONFERENCE

Mr. CELLER. Mr. Speaker, I ask unanimous consent that the conference report on Senate Joint Resolution 1, concerning the amendment involving Presidential inability, be referred to the committee on conference because of a technical error in copying.

The SPEAKER. The gentleman from New York requests unanimous consent that Senate Joint Resolution 1 be recommitted to the committee on conference.

Mr. POFF. Mr. Speaker, reserving the right to object, and I shall not object, I am familiar with the reason for the request and join in the request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TO AMEND TARIFF SCHEDULES OF THE UNITED STATES WITH RESPECT TO THE EXEMPTION FROM DUTY FOR RETURNING RESIDENTS AND FOR OTHER PURPOSES

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8147) to amend the tariff schedules of the United States with respect to the exemption from duty for returning residents, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

The Chair hears none, and appoints the following conferees: Messrs. MILLS, KING of California, BOGGS, BYRNES of Wisconsin, and CURTIS.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

Mr. CELLER submitted the following conference report and statement on the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

CONFERENCE REPORT (REPORT NO. 564)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

" 'ARTICLE —

" 'SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

" 'SEC. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

" 'SEC. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

"SEC. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

"Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.'"

And the House agree to the same.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

BIRCH E. BAYH, JR.,
JAMES O. EASTLAND,
SAM J. ERVIN, JR.,
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House passed House Joint Resolution 1 and then substituted the provisions it had adopted by striking out all after the enacting clause and inserting all of its provisions in Senate Joint Resolution 1. The Senate insisted upon its version and requested a conference; the House then agreed to the conference. The conference report recommends that the Senate recede from its disagreement to the House amendment and agree to the same with an amendment, the amendment being to insert in lieu of the matter inserted by the House amendment the matter agreed to by the conferees and that the House agree thereto.

In substance, the conference report contains substantially the language of the House amendment with a few exceptions.

Sections 1 and 2 of the proposed constitutional amendment were not in disagreement. However, in sections 3 and 4, the Senate provided that the transmittal of the notification of a President's inability be to the President of the Senate and the Speaker of the House of Representatives. The House version provided that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives. The conference report provides that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives.

In section 3, the Senate provided that after receipt of the President's written declaration of his inability that such powers and duties would then be discharged by the Vice President as Acting President. The House version provided the same provision except it added the clause "and until he transmits a written declaration to the contrary". The conference report adopts the House language with one minor change for purposes of clarification by adding the phrase "to them", meaning the President pro tempore of the Senate and the Speaker of the House.

The first paragraph of section 4, outside of adopting the language of the House designating the recipient of the letter of transmittal be the President pro tempore of the Senate and the Speaker of the House of Representatives, minor change in language was made for purposes of clarification.

In the Senate version there was a specific section; namely, section 5, dealing with the procedure that when the President sent to the Congress his written declaration that he was no longer disabled he could resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or such other body as the Congress might by law provide, transmit within 7 days to the designated officers of the Congress their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, the Congress would immediately proceed to decide the issue. It further provided that if the Congress determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President would continue to discharge the same as Acting President; otherwise, the President would resume the powers and duties of his office.

The House version combined sections 4 and 5 into one section, now section 4. Under the House version, the Vice President had 2 days in which to decide whether or not to send a letter stating that he and a majority of the officers of the executive departments, or such other body as Congress may by law provide that the President is unable to discharge the powers and duties of his office. The conference report provides that the period of time for the transmittal of the letter must be within 4 days.

The Senate provision did not provide for the convening of the Congress to decide this issue if it was not in session; the House provided that the Congress must convene for this specific purpose of deciding the issue within 48 hours after the receipt of the written declaration that the President is still disabled. The conference report adopts the language of the House.

The Senate provision placed no time limitation on the Congress for determining whether or not the President was still disabled. The House version provided that determination by the Congress must be made within 10 days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide. The conference report adopts the principle of limiting the period of time within which the Congress must determine the issue, and while the House original version was 10 days and the Senate version an unlimited period of time, the report requires a final determination within 21 days. The 21-day period, if the Congress is in session, runs from the date of receipt of the letter. It further provides that if the Congress is not in session, the 21-day period runs from the time that the Congress convenes.

A vote of less than two-thirds by either House would immediately authorize the President to assume the powers and duties of his office.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

Mr. CELLER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office, and I ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of today.)

Mr. CELLER. Mr. Speaker, today we write on the tablets of history. We amend the Constitution, which Gladstone, speaking in 1898, hailed as the most wonderful work struck off at a given time by the brain and purpose of man.

The United States has two great symbols of her freedom and liberty. One is the Declaration of Independence and the other is the Constitution. The Declaration is the profession of faith, while the Constitution is its working instrument. It gives action to that faith.

There is no document in any country that can compare with our Constitution. It is the touchstone of our prowess and progress as a nation. Most countries envy us our Constitution.

The Constitution has such elasticity that it remains vital throughout the decades, but it is not immutable. It is not written in stone on Mount Sinai.

Associate Supreme Court Justice Oliver Wendell Holmes once said:

> The Constitution is an experiment, as all life is an experiment. If new contingencies arise the Constitution must be made to fit them either by interpretation of fearless judges aware of historical perspective or by amendment.

Jefferson called the Constitution "the ark of our safety and grand palladium of our peace and happiness." He also said:

> We must be content to accept of its good and to cure what is evil in it, hereafter (1788).

Years later, in 1823, he said:

> The States are now so numerous that I despair of ever seeing another amendment to the Constitution; although innovations of time will certainly call and now already call for some.

Note his prescience.

Let it be emphasized; we never should amend this charter for light or tran-

silent reasons. Only for just cause shown should we attempt any change. What we do today is epoch making. We offer an amendment for an overriding reason.

I would like to remind the Members that the House Committee on the Judiciary has been studying this problem since 1955 and has examined it from every conceivable angle. We have had the benefit of the testimony of political scientists, constitutional experts, the American Bar Association, and other groups who had no motive other than to serve this country by closing a gap which had existed since the adoption of the Constitution.

The Constitution was silent, too silent concerning presidential inability. Tragic events had cast ominous shadows which we dared no longer disregard. The assassin's bullet and possible nuclear holocaust forced action.

We, the conferees worked dispassionately and with searching inquiry after both Houses had responded to the call for action. We met in numerous conclaves and finally rounded out differences. We labored hard and patiently. We accepted the pace of Nature, for is not patience her secret? We examined all contingencies and possibilities. We present a solution that is ample, wise, and practicable.

May I at this time pay tribute to the gentleman from Ohio [Mr. McCULLOCH] and the gentleman from Virginia [Mr. POFF], both on the Republican side, and to the gentleman from Colorado [Mr. ROGERS] and the gentleman from California [Mr. CORMAN] on the Democratic side—all conferees—who rendered painstaking and dedicated and wise services in the conference. They were of immeasurable help in the conference with the Senators. I am deeply grateful to them.

Mr. POFF. Mr. Speaker, the conference report represents a compromise. That word should be understood not as an apology for a concession but as a justification for an achievement, an achievement in the highest traditions of legislative and constitutional craftsmanship. It is an accommodation and an accord of viewpoints which once were widely divergent and now, happily, are concordant. The business of the Nation, left unattended for a century because too controversial, has been performed and the controversy has been resolved.

Aside from minor, relatively inconsequential language differences, the House version and the Senate version were substantially equivalent in all but four major particulars.

The first major difference was in section 3. That is the section under which the President can voluntarily vacate his office and vest the Vice President as Acting President with the powers and duties of his office. The difference was in the mechanics of resumption of power by the President. Under the Senate version, the mechanics outlined in sections 4 and 5 would apply. Those mechanics involved first, a declaration of restoration by the President; second, an opportunity for a challenge by the Vice President transmitted to the Congress; and third, the possibility of congressional approval of the Vice President's challenge. The House version did not acuate the mechanics of sections 4 and 5. Rather, it was felt that a distinction should be made between section 3 authorizing voluntary withdrawal of the President and section 4 authorizing involuntary removal of the President by the Vice President. The House felt that the President would be reluctant to utilize section 3 if to do so exposed himself to the possibility of the Vice Presidential challenge and congressional action when he decided to resume the office. Accordingly, section 3 of the House version provided that the President who used the provisions of section 3 could promptly restore himself to his office simply by transmitting a written declaration to the two Houses of Congress.

The conference report—after adding two words of clarification—accepted the House version.

The second major difference between the two versions was in the mechanics of restoration in sections 4 and 5. In the Senate version, the Vice President as Acting President, was allowed 7 days in which to make a decision about challenging the President's declaration of restoration. The House version was 2 days. By way of compromise, the conference report recommends 4 days. The conferees intend that the 4-day period be interpreted as an outside limitation on the time in which the Vice President may consider making a challenge; it is not necessary that the President wait 4 days to resume his office if he and the Vice President mutually agree that he do so earlier.

The third major difference involves a procedural uncertainty which Speaker McCORMACK during House debate recognized might cause calamitous consequences. Under the Senate version, the Vice President's challenge of the President's declaration of restoration had the effect of submitting the dispute between the two men to the Congress for settlement. However, it simply instructed Congress "to immediately proceed to decide the issue." This left unclear what delay might occur in the event the Congress was in recess when it received the Vice President's challenge. Under the House version, the Congress, if not in session, is required to assemble "within 48 hours" to decide the issue.

The conference report accepts the House version.

The fourth major difference is a conceptual difference. Under the Senate version, the Congress having received the Vice President's challenge was empowered to act upon it and if it upheld the challenge by a two-thirds vote, the Vice President would continue to hold office as Acting President; otherwise, the President would resume his office. The House version was essentially the same except that it imposed a 10-day limitation upon congressional action. It said that if the Congress did challenge within 10 days after receipt, then the President would resume his office. The House approach guaranteed that any delay on the part of Congress, whether accidental and unavoidable or intentional and purposeful, would operate in favor of the President elected by the people.

The conference report adopts the concept of a time limitation but increases the time limit from 10 days to 21 days, and if the Congress is in recess when the Vice President's challenge is received, then the 21 days begin to run from the day Congress reconvenes.

No one should assume that House insistence upon a time limit was a criticism of the Senate. It is true that the rules of the other body permit unlimited debate and a small minority of Senators hostile to the President and loyal to the Vice President as Acting President could, in the absence of a time limit, make a great deal of public mischief at a most critical time in the life of the Nation. It is no less true that such mischief could be wrought by a small dedicated band of enemies of the President in the House. By tedious invocation of the technical rules of procedure, that little band could frustrate action on the Vice President's challenge for a protracted period of time, during which the Vice President would continue to serve as Acting President and the President, knocking on his own door for readmission, would be kept standing outside. If this little band happened to be one more than half the membership of the House, their task would be much easier, because they could simply meet and adjourn every third day without any action at all. Thus, more than half but less than two-thirds could effectively accomplish by inaction the same thing it would take two-thirds to accomplish by vote if there is no time limit in the Constitution. The conference committee understood this danger, and that is why the 21-day provision is in the conference report.

Several matters need to be clearly established by legislative history. First of all, the conferees unanimously intend that the 21-day period be considered an outside limitation and should in no wise be interpreted to encourage a delay longer than necessary. Indeed, in the face of such a crisis as the Nation would face at a time when section 4 would become operable, the Conferees feel that both Houses of Congress should act with the least possible delay.

Secondly, the conferees unanimously intend that should one House of the Congress proceed to a vote on the Vice President's challenge and less than two-thirds of its Members vote to uphold the challenge, this action shall have the effect of restoring the President immediately to his office, even though the other House has not yet acted.

Mr. Speaker, I have no fear but that this conference report will be adopted by a two-thirds vote. But I am prompted to express the hope and the plea that it will be adopted by a unanimous vote, and with such a congressional blessing, the proposal would, I am confident, be ratified by three-fourths of the States before the end of next year.

Mr. BOLAND. Mr. Speaker, I would like to take this opportunity to associate myself with the distinguished majority leader and minority whip in expressing my gratitude and admiration for the chairman of the Committee on the Judi-

ciary and the dean of the House, the gentleman from New York [Mr. CELLER].

Today is a very suitable occasion: for we have just given final House approval to a proposed constitutional amendment making necessary provisions for the continuance of orderly government and Executive responsibility in the case of Presidential disability or a vacancy in the Vice-Presidency. This legislation exhibits the genius and diligence which have been characteristic of all the undertakings of Mr. CELLER in his many years of service to the Nation and to this House.

His decades of service in the National Congress, his noteworthy legal career, and a sound understanding of the necessities and needs of the American Constitution have all contributed to make our dean of the House a recognized leader in legal and constitutional matters, and a spokesman who must be heard. This House has heard Mr. CELLER and his Judiciary Committee in approving this legislation today. This is a great tribute to the chairman and his committee who have gone a long way toward effecting eventual incorporation of this greatly needed provision into our Constitution.

Mr. Speaker, I include with my remarks at this point in the RECORD an editorial taken from the Springfield, Mass., Daily News of June 29, 1965, entitled "When the President Is Disabled":

WHEN THE PRESIDENT IS DISABLED

A compromise formula for correcting a major flaw in the Constitution of the United States, namely, the lack of a provision for filling the Vice-Presidency when the office becomes vacant or for making the Vice President a temporary Acting President in case the President of the United States should become disabled, has been reached by Senate and House conferees. It will now go before Congress for approval and then to the States for ratification.

The way the plan would operate is that if the President felt himself unable to perform his duties he would simply notify the Speaker of the House of Representatives and the President pro tempore of the Senate of his disability. The Vice President would then take over immediately as Acting President. In the event of a President so disabled as to be unable to notify Congress of his disability or if he should refuse to admit he is disabled, the situation would be handled this way. The Vice President and a majority of the members of the President's Cabinet would sign a written declaration that the President was disabled and send the declaration to Congress. The Vice President would then become Acting President, just as though the President himself had declared his own disability.

The need for this constitutional amendment is generally accepted. On at least two occasions, because there was no such provision, the executive branch of the Federal Government has been virtually paralyzed because of this constitutional lack. President James A. Garfield lived for 80 days after being shot in 1881, but his Vice President felt he had not the right to take over. President Woodrow Wilson served for 18 months while paralyzed with a stroke, but many believe that his wife and the Cabinet really governed. There are also the cases of two other Presidents who were disabled. President William McKinley survived for 8 days after being shot in 1901, and the business of Government came to a halt. Most recently, President Dwight D. Eisenhower suffered a coronary thrombosis in 1955 and was almost completely isolated for a week and hospitalized for 6 weeks.

The proposed amendment to the Constitution also covers a vacancy in the Vice-Presidency. It provides that the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress. This is the first provision ever made for filling such a gap, which has existed often in this country. Not many, probably, realize it, but in the 176 years since John Adams became the first Vice President of the United States, the Nation has functioned without a Vice President on 16 occasions for a total of 37 years, which is roughly one-fifth of the time the Federal Government has been in operation.

Here is what happened to Vice Presidents who failed to complete their terms: George Clinton died April 20, 1812, 10 months before his term expired; Elbridge Gerry died November 23, 1814, 2 years before his term expired; John C. Calhoun resigned December 28, 1832, with 2 months to serve, to become a U.S. Senator; John Tyler became President April 6, 1841, almost 4 years before his term expired, replacing President William H. Harrison, who died; Millard Fillmore became President July 10, 1850, 2 years and 8 months before his term expired, succeeding President Zachary Taylor, who died; William R. King died April 19, 1853, with almost 4 years to serve; Andrew Johnson became President April 15, 1865, with 3 years and 11 months to serve, replacing President Abraham Lincoln, who was assassinated; Henry Wilson died in office November 22, 1875, a year and 3 months before the end of his term; Chester A. Arthur became President September 20, 1881, with 3 years and 5 months to serve, succeeding President James A. Garfield, who was assassinated; Thomas A. Hendricks died November 25, 1885, with 3 years and 3 months to serve; Garret A. Hobart died November 21, 1899, a year and 3 months before his term expired; Theodore Roosevelt became President September 14, 1901, with 3 years and 6 months to serve, when President William McKinley was murdered; James A. Sherman died October 30, 1912, 4 months before his term expired; Calvin Coolidge became President August 3, 1923, with a year and 7 months to serve, when President Warren G. Harding died; Harry S. Truman became President April 12, 1945, with 3 years and 9 months to serve, when President Franklin D. Roosevelt died; and Lyndon B. Johnson became President November 23, 1963, with a year and 2 months to serve, when President John F. Kennedy was assassinated.

A way has now been found to overcome a serious constitutional weakness. It may not be ideal, but it is far preferable to the present void. It deserves prompt approval by Congress and ratification by the States.

Mr. CELLER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and (two-thirds having voted in favor thereof) the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. CELLER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks in the RECORD on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

TRIBUTE TO HONORABLE H. R. GROSS

(Mrs. BOLTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOLTON. Mr. Speaker, may I have the attention of the House?

I rise today to ask all of you to pay honor to a man whom I have grown to admire very much. He is one of the hornets in the House. He is one of the most hard working men, if not the most hard working man, in the House. He is very much beloved by many people and he is just not liked too much by others. But he is a wonderful person and he is a marvelous Member. He is an example to all of us about doing our homework.

This is his birthday. I hope very much that you will join me in wishing him many more years of the service he has been rendering, assuring him of our appreciation of his amazing capacity, his loyalty, and his patriotism.

I give you the distinguished gentleman from Iowa, H. R. GROSS.

A MEMORABLE DAY

(Mr. ALBERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBERT. Mr. Speaker, this is a memorable day in the history of the House and in the life of one of the most distinguished men ever to serve in the House. The House has just adopted the conference report on the constitutional amendment dealing with Presidential disability and succession, which has been managed from its beginning by the distinguished dean of the House, the gentleman from New York [Mr. CELLER].

Also of historical significance is the fact that this is the third constitutional amendment which has been shepherded through the House by our distinguished friend from New York. He also authored and brought out of his committee and through the House the constitutional amendment dealing with poll taxes and the constitutional amendment dealing with the right of citizens of the District of Columbia to vote in presidential elections. This is a great milestone in the legislative career of one of our Members.

Mr. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ALBERT. I will be glad to yield to the gentleman.

Mr. BOGGS. I would like to join in the tribute that our distinguished majority leader is paying to the dean of the House of Representatives. In the first place, this is a most significant amendment to our Constitution. I had the responsibility of serving on the Assassination Commission. One of the alarming things about that sad duty was the fact that we had not adequately provided for the succession of the Chief of State of the United States of America.

The distinguished gentleman has done an outstanding job. I think there is no Member more beloved than MANNY CELLER of New York. Some may disagree with him on occasion, as all of us are inclined to disagree with one another. But no person could conceivably ques-

petent men, and I have a high regard for them. Their only trouble is that they just think differently than people in the mining industries.

And we have confidence, as do our friends in the Congress, that eventually we will change their thinking. Otherwise we would have quit long ago. We also have confidence that our Chief Executive shares our beliefs regarding the need for strong and healthy mining industries, for he so often so expressed himself when he was the distinguished leader of the Senate—and that in due course his beliefs will be reflected in a changed attitude among the several administrative departments.

Now, the question is, What can you do, or should you do, or what must you do?

I believe we are coming closer to the establishment of a national minerals policy, and I believe that each and every one who has knowledge of and a stake in a minerals industry should have a part in establishing that policy by making his views known on the many matters that relate to the derivation of such a policy.

This you can do by establishing a corresponding relationship with your own congressional Representatives. You will be surprised at the impact your interest will have on them.

Why not start by asking your Congressman to find you a copy of House Concurrent Resolution 177, and ask him if he doesn't think it is about time something constructive was done about it.

Why not ask him how he feels about the Congress relinquishing its control of stockpiles to the executive branch of the Government, as is now being proposed in certain quarters.

Why not find out how he feels about lead and zinc quotas or the relaxation of quotas on residual fuel oil.

Find out how he feels about these and any other matters that relate to the general welfare of domestic mining and to the evolution of the long-range policy. But, more importantly, be sure to let your Representative know how you feel about these things. Your opinions are what will count.

The actions of the Federal Government, whether they be actions of the executive branch or of the Congress will henceforth have profound bearing on the business you are in and whether that business survives, disappears, or prospers. Believe me, it takes more than will and skill to be a miner these days. To cover all of the facets of your business today you must recognize that political considerations will have as much bearing on your future as will scientific advancement. You must keep abreast of both and neglect neither. Write papers about the science, but write your Congressman about the politics.

Bill Pete

CONGRESS SHOULD REEXAMINE THE PRESIDENTIAL INABILITY BILL

(Mr. GONZALEZ (at the request of Mr. FOLEY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, when the Presidential inability bill, House Joint Resolution 1, was brought up on the floor of the House on April 13, 1965, I was one of the 29 Representatives who voted against it. My vote on this proposed constitutional amendment was, in my opinion, one of the most important votes that I have ever cast. Now, after 2½ months have elapsed since the bill was passed by the House, I feel even stronger in my conviction that this matter ought to be reconsidered and that it would be a serious mistake to pass the bill in its present form.

I was one of the first Members of Congress to introduce legislation on the subject of a vacancy in the office of the Vice Presidency. My bill, House Joint Resolution 893, was introduced on January 21, 1964, and I reintroduced the same bill as House Joint Resolution 53 on January 4, 1965, the first day of the 89th Congress. But the bill that was passed goes too far. My bill covered only the problem of a vacancy in the office of the Vice Presidency. The procedure for filling this vacancy described in my bill was substantially incorporated in the one that passed.

But it was not originally intended by the proponents of an amendment to close this gap in the law that Congress also go into the area of presidential inability. The provisions of the bill covering presidential inability are objectionable and should not be enacted for several reasons. First, the bill provides for the transfer of executive power from the President to the Vice President in times of presidential inability with the President's consent or against his will. There is a vagueness in the language of this section which I believe should not be incorporated into the Constitution. For example, nowhere is the term "inability" defined. In an area as crucial and consequential as the Presidency of the United States, such a lack of definition can be disastrous. Vagueness in the language of the bill appears again in the reference to "the principal officers of the executive departments, or such other body as Congress may by law provide." No one has ever spelled out or explained to my satisfaction exactly what is meant by the phrase "such other body."

Second, and the most serious flaw in the bill, in my judgment, is the almost unchecked ease with which the President can be removed by either an unscrupulous or mistaken subordinate.

Third, is the possible confusion as to who or which administration is in charge of the Government once the mechanism of the bill goes into operation.

I understand that today, on the floor of the Senate, Senator ROBERT KENNEDY addressed himself to this problem and to the matter of the Presidential inability provisions generally. Ever since I cast my vote with the 29-man minority against this bill I have been praying that somehow the bill would be reexamined and changed before enacted into law. I still hope and pray that it will not be enacted in its present form.

I implore the Members of this House, and especially the majority and minority leadership, to restudy this bill, to give pause before it is finally approved, and to clear up the ambiguities and vagueness which I believe now exist. I support Senator KENNEDY in his effort to slow down the wheels of Congress and to delay final passage of this bill.

CONGO INDEPENDENCE

(Mr. GONZALEZ (at the request of Mr. FOLEY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GONZALEZ. Mr. Speaker, today is the fifth anniversary of the independence of the Congo which came June 30, 1960, after 85 years of Belgian rule. It is only fitting that we pause to pay tribute to the Democratic Republic of the Congo and the struggle of her people.

The Congo, which is located in the south-central part of the African Continent, and covers an area of about 904,747 square miles, was first the personal property of the Belgian King—from 1885 to 1908—and then as a Belgian colony.

Prior to 1959, when the Belgian Government decided to grant independence to the Congo, the Belgian administration concentrated on economic development and social improvement. The result was the growth of the greatest industrial concentration and the most extensive primary educational system in tropical Africa. A class of skilled and semi-skilled workers and office personnel was developed although the vast bulk of the population remained dependent upon subsistence agriculture.

Due to this strong background the Congo was given a better than average chance compared to some other nations that have just recently been given their independence.

Similar to other newly independent nations there has been during these last 5 years there have been many rebellions, changes in the government, and many national leaders including Patrice Lumumba, Joseph Kasavubu, and Moise Tshombe, who was chosen as Prime Minister by President Kasavubu on July 10, 1964.

Tshombe may be the man who will play the most important role in restoring the eastern Congo.

By comparison with other African countries, the exports and the general economy of the Congo, are more diversified and more developed. In short, the Congo has the highest wages and the highest literacy rate in tropical Africa, produces 8 percent of the world's copper and most of the world's cobalt and industrial diamonds, and has a vigorous and competitive agriculture.

U.S. aid given directly to the Congo, or to the United Nations for its technical assistance and peacekeeping activities in the Congo, has totaled over $400 million through the end of fiscal year 1964. The objective of this program has been to help the Congo maintain its independence and territorial integrity while achieving economic stability and an improved administration. Given a degree of tranquility and continued assistance while training its own cadres of qualified experts, the Congo has bright prospects of being one of the most prosperous countries in Africa.

PORTRAIT OF A DEDICATED PROFESSIONAL SOLDIER—LT. GEN. JAMES P. BERKELEY

(Mr. HENDERSON (at the request of Mr. FOLEY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HENDERSON. Mr. Speaker, today the Nation reluctantly releases from active military duty and returns to private life and well-deserved retirement Lt. Gen. James P. Berkeley, U.S. Marine Corps.

Lt. Gen. James Phillips Berkeley assumed his current assignment as commanding general, Fleet Marine Force, Atlantic, at Norfolk, Va., August 1, 1963, following his promotion to his present rank.

The general was born July 1, 1907, at Portsmouth, Va. He attended school at Shepherdstown, W. Va., and Severn Preparatory School. He enlisted in the Marine Corps on March 1, 1927, and served in Nicaragua from January to December 1928. After almost 3 years as an enlisted man, he was commissioned a marine second lieutenant on January 31, 1930, at the Marine Barracks, Washington, D.C.

Lieutenant Berkeley was then ordered to the Philadelphia Navy Yard, where he served as a company officer at the Marine Barracks and completed the Basic School for Marine Corps officers in June 1931. Following graduation he served at the Norfolk Navy Yard in Virginia, before sailing for China in April 1932 for duty with the Marine detachment at the American Embassy, Peiping. He returned to the United States in December 1934, and was promoted to first lieutenant in February 1935 while serving as a battalion communications officer with the 6th Marine Regiment at San Diego, Calif.

In May 1935, Lieutenant Berkeley reported to Quantico, Va., where he headed the communications platoons of the Fleet Marine Force and the 1st Marine Brigade. Detached from Quantico in August 1936, he entered the Army Signal School at Fort Monmouth, N.J., the following month. On completing the course in June 1937, he returned to the 1st Brigade. That September he was promoted to captain.

Captain Berkeley headed the 1st Brigade's communications platoon until April 1938, then served as brigade communications officer until March 1939, when he left Quantico to take command of the Marine detachment aboard the U.S.S. *Wichita*. Returning from sea duty in June 1941, he was named communications officer of the Marine Corps Base at Quantico. He was serving in this post when World War II broke out. In January 1942 he was promoted to major.

In March 1942, Major Berkeley was ordered to Marine Corps Headquarters, Washington, D.C., to serve as assistant officer in charge of the communications section, division of plans and policies. He was promoted to lieutenant colonel in August 1942.

While attached to that section, Lieutenant Colonel Berkeley accompanied the Commandant of the Marine Corps on an inspection tour of Guadalcanal and other South Pacific areas in October and November 1942. He also made an observation tour of the United Kingdom, Africa, and Italy from August to October 1943, during which he was an observer with the 46th British Infantry Division at the Salerno landing, September 9, 1943. In November 1943 he reported to Camp Pendleton, Calif., where he commanded the field signal battalion prior to becoming signal officer of the 5th Marine Division in February 1944.

Sailing again for the Pacific area that August, Lieutenant Colonel Berkeley served as 5th Division signal officer in Hawaii and at Iwo Jima. He also served as executive officer of the 27th Marines, 5th Marine Division, at Iwo Jima in March 1945, and in Hawaii during the following 2 months. For outstanding service on Iwo Jima, he was awarded the Legion of Merit with Combat "V." In July 1945 he was named signal officer of the 5th Amphibious Corps, serving in that capacity in Hawaii and Japan. He was promoted to colonel the following month.

Colonel Berkeley served as officer in charge of the disposition of enemy material from October to December 1945, and as commander of the 6th Marines, 2d Marine Division, from January to March 1946. He returned from Japan in April 1946, and the following month was named Assistant to the Navy Secretary of the Joint Army-Navy Secretariat, Office of the Secretary of the Navy, Washington, D.C. He remained with that organization until January 1947.

In February 1947, Colonel Berkeley sailed for Buenos Aires to serve as Amphibious Warfare Adviser to the Argentine Naval War College and as an adviser to the Argentine Marine Corps. He returned to the United States in May 1949 and, after brief service with the Troop Training Unit, Atlantic, at Little Creek, Va., entered the Armed Forces Staff College at Norfolk in August 1949. Completing that course in January 1950, he reported the following month to the Naval War College at Newport, R.I., where he served as a staff member and later as assistant head and head of the Department of Strategy and Tactics.

Leaving Newport in May 1953, Colonel Berkeley served in Washington for the next year as commanding officer of the Marine Barracks and Director of the Marine Corps Institute. He embarked for Korea in June 1954 to become Chief of Staff of the 1st Marine Division and returned with the division to Camp Pendleton the following spring.

In July 1955, he was promoted to brigadier general and began three years' duty as Assistant Chief of Staff, G–1—Personnel—at Headquarters Marine Corps. He was promoted to major general in July 1958 on assuming duties as commanding general, Department of the Pacific, in San Francisco, Calif.

Following this assignment, General Berkeley served as commanding general, 2d Marine Division, Fleet Marine Force, at Camp Lejeune, N.C., from November 1959 until October 1961. In November 1961, he became commanding general, Marine Corps Base, Camp Lejeune, serving in this capacity until July 1963. On August 1, 1963, he assumed duty as commanding general, Fleet Marine Force, Atlantic, at Norfolk, Va., with the rank of lieutenant general.

The general's medals include: the Legion of Merit with Combat "V," the Marine Corps Good Conduct Medal, the Presidential Unit Citation, the Marine Corps Expeditionary Medal, the Second Nicaraguan Campaign Medal, the Yangtze Service Medal, the American Defense Service Medal with fleet clasp, the American Campaign Medal, the European-African-Middle Eastern Campaign Medal with one bronze star, the Asiatic-Pacific Campaign Medal with one bronze star, the World War II Victory Medal, the Navy Occupation Service Medal with Asia clasp, the National Defense Service Medal, the Korean Service Medal, the United Nations Service Medal, and the Nicaraguan Medal of Merit.

General Berkeley is married to the former Margaret L. Griffiths of Philadelphia, Pa. The general's parents are deceased. His father was the late Maj. Gen. Randolph C. Berkeley, U.S. Marine Corps, of Port Royal, S.C., who was awarded the Medal of Honor for heroism at Vera Cruz, Mexico, in 1914. A guided missile destroyer, the U.S.S. *Berkeley*, launched in July 1961, was named in honor of General Berkeley's father.

General Berkeley has one brother, Col. Randolph C. Berkeley, Jr., a Marine officer also.

It was during his command of the Second Marine Division and his command of Marine Corps Base, Camp Lejeune, N.C., that I came to know and admire Phil Berkeley. Not only was he a military officer of unusual skill and ability; he was also a warm, human conscientious citizen. His grasp of the problems and the peculiar situation of civilians employed on the base was most unusual and during his tour as base commander, relations between the military personnel and the civilian community were outstanding.

It was my distinct and profound pleasure during this period to enjoy with Phil Berkeley, not just the relationship of Congressman and base commander, but a warm personal friendship which continues to this day.

I wish him Godspeed in his future activities, and I envy my good friend and colleague, PORTER HARDY, JR., whom I understand will soon have General Berkeley as a permanent resident in his district at Norfolk.

LT. GEN. JAMES P. BERKELEY, U.S. MARINE CORPS

(Mr. HARDY (at the request of Mr. FOLEY) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HARDY. Mr. Speaker, I want to join my good friend from North Carolina in all good wishes to General Berkeley on his retirement. General Berkeley is a native of my district and I am doubly pleased that he will continue to reside in my constituency. It has been a privilege to know him and work with him during his active-duty service and I look forward to the continuation of close personal contacts with him during the years ahead.

gone out of existence this past year, or have become too old for use. No one has built any new ones.

We have had this bill before the Senate before—as the Senator will remember—and we used to count noses and found out that everyone east of the Mississippi would vote against the bill, and everyone west of the Mississippi would vote for it. There were just more Senators east of the Mississippi in the Senate than there were west of the Mississippi. So we used to hold hearings every year, and on the floor of the Senate both sides almost gave it up, but the situation is getting so bad overall that now the southern railroads are feeling the terrible pinch on freight cars.

It may be that this action will stimulate everyone to do a little more in this field.

Mr. HRUSKA. The situation has been described correctly. For years, in the Middle West, we have felt that the railroads there have furnished more than their share, certainly a very generous share, of the cars, considering the mileage and the freight that they generate. However, there has always been the cry that the other railroads did not do their share.

When the Senator from Kansas held the hearings in my home city of Omaha, that same song was sung once again. The conclusion was expressed that something must be done in a fundamental way. We are sure that this bill will represent some real progress.

Mr. ALLOTT. Mr. President, I compliment the chairman of the committee on bringing the bill to the floor. The problem has recurred every year that I can recall. Each year we have been faced with a boxcar shortage. The facts which the chairman and the Senator from Nebraska have recited have been recited over and over again. There has always been the feeling, because there has not been a sufficient daily rate charged, that certain railroads were furnishing more than their share of the boxcars. Our railroads in the West have always felt that they were furnishing more than their share of boxcars.

Mr. MAGNUSON. They were.

Mr. ALLOTT. The figures seem to support the statement that they were.

Now we get to the point where the ICC will be able to do something about the problem. Through the past few years the distinguished chairman [Mr. MAGNUSON] and some of us in the Midwest have had numerous conferences with the ICC. They have moved in some people on an emergency basis, and I believe they have done everything that they could do under the law and under the circumstances to alleviate the situation.

Now we have put in the Commission's hands the power to do something about it.

I would be remiss in paying my respects to the chairman and to the distinguished Senator from Nebraska [Mr. HRUSKA], who has done so much work on this situation in the last few years, if I did not also say to the distinguished Senator from Kansas [Mr. PEARSON] that we in Colorado were deeply appreciative for having been given the opportunity to have a hearing held there, at which our people could testify. Some of that testimony bears out the statements that have been made on the floor. My junior colleague from Colorado has also been very much interested in this subject. I believe we are moving in the right direction.

Mr. DOMINICK. Mr. President, I appreciate the courtesy of the Senator from Washington. He has been working on this problem for about 17 years. It must be a great relief to him to get the bill to the floor and in a position where it is almost assured of passage.

While we are passing out accolades, in addition to the junior Senator from Connecticut, who has spearheaded drives in this field, in which I have participated, I also wish to say a word in behalf of the Senator from New Hampshire [Mr. COTTON], who has been able to bring about a meeting of minds in working out language which helped to avoid some of the internecine fighting that we had before between the railroads in connection with this problem. I know at firsthand that the railroad car shortage is growing worse, instead of better.

The bill is a step in the right direction, even though it may not cure the whole problem overnight. I congratulate the chairman and the Senator from Nebraska and the junior Senator from Kansas and everyone else who has worked on this program of trying to get something done. I am not sure that we have found the whole solution to the problem. I might say to the distinguished chairman that it may be that as time goes on, if we find it does not form a right method by which the ICC can work out the problem of getting more boxcars, we shall have to enact some kind of incentive program. However, that is for the future. At least, this is a step in the right direction. I congratulate everyone.

Mr. MAGNUSON. Mr. President, when the Senator from Colorado said that this problem has been with us 17 years, I was reminded that it has indeed been with us for a long time. When the distinguished Senator was holding his hearings, the former chairman of the Committee on Commerce, Ed Johnson, from the State of Colorado, former Governor of the State, said, when the hearing was scheduled, that this was one hearing he wanted to attend. He did.

Mr. DOMINICK. I remember that during one of the hearings the chairman himself said that the first record we had of complaints in the Senate, at least written records, concerning the shortage of boxcars, was in 1906.

Mr. MAGNUSON. Yes.

Mr. DOMINICK. The problem has been with us for a long time.

Mr. MILLER. Mr. President, I wish to add my commendation to the chairman for taking action on the bill. I would have preferred to have the bill left as it was. I recognize the problems the chairman had with the bill. Perhaps there is a need at this time to have a modification of it. I trust that if the results are not what we hope they will be, the chairman of the committee will keep an open mind on the subject for possible future changes, which will alleviate the problem. I am sure he will do so.

Mr. MAGNUSON. We shall have another go at it.

Mr. MILLER. That is a fair approach. I thank the chairman for taking action in support of the bill. I support his action.

Mr. CURTIS. Mr. President, this measure is designed to help alleviate the boxcar shortages which each year create acute hardships in Nebraska and other Farm Belt States. I am pleased to be listed as sponsor or cosponsor. All Nebraskans are very grateful to Chairman MAGNUSON of the Committee on Commerce for his consideration of this problem.

It is important that Congress enact legislation which would help assure the midwestern grain industry of an adequate supply of cars to ship their product when it is ready for shipment, and which would help avoid losses occasioned by shortages of this equipment.

I will not dwell upon the details of the very simple proposal which would provide an incentive for railroad management to build freight cars essential to the Nation's needs. It would grant authority to the Interstate Commerce Commission to fix rental rates which would provide just and reasonable compensation to freight car owners and it would encourage the acquisition and maintenance of a car supply sufficient to meet the needs of both commerce and the national defense.

I wholeheartedly endorse this proposal, and I urge its passage to offer relief to an important segment of our economy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the amendments of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the United States Constitution relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Bill file

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF VICE PRESIDENT—CONFERENCE REPORT

Mr. BAYH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitu-

tion of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of June 29, 1965, p. 14587, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BAYH. Mr. President, we have before us for final passage Senate Joint Resolution 1, which is a proposal to amend the Constitution to assure Presidential succession and authority in our Government.

The progress of the bill has been the result of the labors of many persons, particularly the President of the United States, the leadership of this body, the leadership of the House of Representatives, the executives of the American Bar Association, and my colleagues on the Judiciary Committee, with particular emphasis upon those who labored on the Subcommittee on Constitutional Amendments.

The measure was introduced by myself on behalf of myself and many other Senators. It has been slightly modified from the form in which it was introduced in December 1963. Since then it has been the subject of two sets of hearing before the Senate Subcommittee on Constitutional Amendments. It has been studied by the full Committees on the Judiciary of both the House and the Senate. It was twice passed in the Senate by unanimous yea and nay votes, and it was overwhelmingly approved by the other body.

Earlier this year the proposed amendment received the full support of the President of the United States. Earlier it had been endorsed, as was brought out in some detail in the debate which ensued in this body, by such distinguished nongovernmental groups as the American Bar Association.

At long last the Senate and House conferees have completed their studies of the proposed amendment. A short while ago the conference report was approved by the House of Representatives. All that remains is for this body to approve the conference report, and then the measure will be sent to the States for ratification.

If the Senate acts affirmatively, it will be the 11th time in the past 90 years that Congress has submitted a proposed amendment to the Constitution to the several States. Of the last 10 that have been submitted, 9 have been ratified.

We have every reason to believe that the States will look with favor upon the proposed amendment, which is not designed really to alter the Constitution, but rather to fill a void in that great document which has existed for 178 years. As all of us know, the amendment is designed to do three specific things. I should like hastily to review the three purposes:

First, the proposed amendment would make forever clear that when the office of President becomes vacant, the Vice President shall become President, not merely Acting President. We would clearly state in the Constitution what has become precedent through the actions of Vice President Tyler following the death of the then President Harrison.

Second, if the office of Vice President should become vacant, the proposed amendment would provide a means to fill that office so that we would at all times have a Vice President of the United States.

Third, the proposed amendment would provide a means by which the Vice President may assume the powers and duties of the Chief Executive when the President is unable to do so himself.

The conference report, which has now been approved by the House of Representatives, contains certain changes from the proposal which the Senate approved earlier this year by a vote of 72 to 0. I should like to describe those changes and then urge approval of the conference report by this body.

In the Senate version of the measure we prescribed that all declarations concerning the inability of the President or of his ability to perform the powers and duties of that office, particularly a declaration concerning his readiness to resume the powers and duties of his office made by the President of the United States himself, be transmitted to the Speaker of the House and to the President of the Senate.

The conference committee report proposes that those declarations go to the Speaker and to the President pro tempore of the Senate. The reason for the change is, of course, that the Vice President, who is also the President of the Senate, would be participating in making a declaration of presidential inability, and therefore would be unable to transmit his own declaration to himself. In addition, I believe that we would be on better legal ground not to send the declaration to a party in interest. The Vice President, who would be shortly assuming or seeking to assume the powers and duties of the office, would indeed be a party in interest.

In the Senate version of the bill we did not specify that if the President were to surrender his powers and duties voluntarily—and I emphasize the word "voluntarily"—he could resume them immediately upon declaring that his inability no longer existed. We believe that our language clearly implied this. Certainly the intention was made clear in the debate on the question on the floor of the Senate and in the record of our committee hearings, but the Attorney General of the United States requested that we be more specific on this point so as to encourage a President to make a voluntary declaration to the effect that he was unable to perform the powers and duties of the office, if it was necessary for him to do so.

We made that point clear in the conference committee report.

We added specific language enabling the President to resume his powers and duties immediately, with no waiting period, if he had given up his powers and duties by voluntary declaration.

That had been the intention of the Senate all along, as I recall the colloquy which took place on the floor of the Senate; and we had no objection to making that intention crystal clear in the wording of the proposed constitutional amendment itself.

In the Senate version we prescribed that the President, having been divested of his powers and duties by declaration of the Vice President and a majority of the Cabinet, or such other body as Congress by law may provide, could resume the powers and duties of the office of President upon his declaration that no inability existed, unless within 7 days the Vice President and a majority of the Cabinet or the other body issued a declaration challenging the President's intention. The House version prescribed that the waiting period be 2 days. The conference compromised on 4 days, and I urge the Senate to accept that as a reasonable compromise between the time limits imposed by the two bodies.

Furthermore, we have clarified language, at the request of the Senate conferees, to make crystal clear that the Vice President must be a party to any action declaring the President unable to perform his powers and duties.

I remember well the words of President Eisenhower before the American Bar Association conference, when he said that it is a constitutional obligation of the Vice President to help make these decisions. We in the Senate felt that to be the case, and thus changed the language a bit to make it specifically clear.

That, I am sure, had been the intention of both the Senate and the House, but we felt that the language was not specific enough, so we clarified it on that point.

The Senate conferees accepted a House amendment requiring the Congress to convene within 48 hours, if they were not then in session, and if the Vice President and a majority of the Cabinet or the other body were to challenge the President's declaration that he, the Chief Executive, were not disabled or, once again, able to perform the powers and duties of his office.

We feel that the requirement would encourage speedy disposition of the question by the Congress, and I urge its acceptance by the Senate.

Finally, the Senate version imposed longtime limitations upon the Congress to settle a dispute as to whether the President or the Vice President could perform the powers and duties of the office of President. Senators know the question would come to the Congress only if the Vice President, who would then be acting as President, were to challenge, in conjunction with a majority of the Cabinet, the President's declaration that no inability existed. The House version imposed a 10-day time limitation. The Senate conferees were willing to have a time limitation as a further safeguard to the President, but we were unanimous in agreeing that 10

days was too short a period in which to decide on that grave a question.

The conferees finally agreed to a 21-day time limitation after which, if the Vice President had failed to win the support of two-thirds of both the Houses of Congress, the President would automatically return to the powers and duties of his office. I urge the Senate to accept that change.

I should like to specify one thing further about this particular point since I feel it is the main point of contention between the House and the Senate, and one upon which I was happy to see we could find some agreement.

First, including a time limitation in the Constitution of the United States would impose upon those who come after us in this great body a limitation on their discussion and deliberation when surrounded by contingencies which we cannot foresee. The Senate conferees felt that a 10-day time limitation was too short a period.

Our feeling in the Senate, as represented by the views of the conferees, was that we should go slowly in imposing a maximum time limitation if we could not foresee the contingencies that might confront those who were forced to make their determination as to who would be the President of the United States. I believe 21 days is a reasonable time. I emphasize that it is our feeling that this is not necessarily an absolute period. The 21 days need not always be used. In my estimation, most decisions would be made in a shorter time. But if the Nation were involved in a war or other international crisis, and the President had suffered an illness whose diagnosis might be difficult, a longer time might be needed, and the maximum of 21 days that was agreed upon might be required.

It should be made clear that if during the 21-day limit one House of Congress, either the Senate or the House of Representatives, voted on the issue as to whether the President was unable to perform his powers and duties, but failed to obtain the necessary two-thirds majority to sustain the position of the Vice President and the Cabinet, or whatever other body Congress in its wisdom might prescribe at some future date, the issue would be decided in favor of the President. In other words, if one House voted but failed to get the necessary two-thirds majority, the other House would be precluded from using the 21 days and the President would immediately reassume the powers and duties of his office.

I feel that further remarks are unnecessary. I thank all who have made it possible for us to bring the amendment to this stage, especially the distinguished Senator from Nebraska [Mr. HRUSKA].

I observe in the Chamber the father of the last constitutional amendment to be adopted, the distinguished Senator from Florida [Mr. HOLLAND], whose advice I shall be seeking with respect to the method of approaching State legislatures.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. HOLLAND. I compliment the Senator from Indiana warmly on the fine service he has rendered to the Senate and the Nation. I hope he will have early success in obtaining action by the 43 State legislatures whose ratification of the amendment is necessary before it becomes a part of the Constitution. I believe he will receive that kind of action, because the Nation realizes that in these perilous times this difficult question, which has been pending for so long, should have this method of solution available at all times, and as speedily as possible.

I wish I could help the Senator from Indiana in relation to his contacts with Governors and State legislatures. But judging by the fine ability that he has shown in consulting others up to this time, he certainly needs no suggestions from me or from anyone else.

May I ask the distinguished Senator a question?

Mr. BAYH. Yes.

Mr. HOLLAND. Is it the Senator's intention to ask for a quorum call and then to ask for the yeas and nays?

Mr. BAYH. That is not my intention. Inasmuch as the Senate has voted on much the same proposal by a substantial margin on two occasions; inasmuch as the House, when it concurred in the conference report, did not take a yea-and-nay vote; and inasmuch as some Senators are not present at this time, I believe it is really unnecessary to have a yea-and-nay vote.

Mr. HOLLAND. I shall defer, of course, to the views of the distinguished Senator, who is the principal author and cosponsor of the measure, and to the views of the majority leader and the acting minority leader, who are in the Chamber.

I believe it would be impressive—and this is the only comment I shall have to make—when action is taken by the States if more than one or two Senators had affirmatively espoused a particular version of an amendment which had reached State legislatures. But I shall gladly defer to the judgment of the Senator from Indiana and the majority leader and acting minority leader.

Mr. HRUSKA. Mr. President, I join the Senator from Indiana in urging the adoption of the conference report.

The proposed constitutional amendment is a correction of a long-exposed defect in the organization of our National Government. The amendment provides for a solution of the disastrous but inevitable situation that would confront the Nation in the event of a fallen leader of the Nation, either because of violence, illness, or disability. It has been a troublesome problem, one which has provided many uneasy moments to the people of the Nation from time to time during our history.

In the course of examining the problem, we have found that there is an infinity of contingencies which could be raised in any number of hypothetical situations. If we ever tried to provide for all of them or for any substantial number of them, it would require an infinite number of days or months, or perhaps years, to continue the debate on this subject. So we had to fill the vacuum by agreeing upon the joint resolution which is before us as the resolute action of this body and the other body and of the conference committee.

I believe the solution is sound. It would restrict the role of Congress considerably. Under the amendment Congress would act only as an appellate body in the event there were a difference of opinion between the President, on the one hand, as to his ability to return to his office, and the judgment of the Vice President and a majority of the Cabinet, or some other body that might be constituted by law, which might have an opinion to the contrary.

Congress by itself would have no power to initiate a challenge of the President's ability or inability in this regard.

I wish to comment upon the role of the junior Senator from Indiana in the preparation of the joint resolution, not only with respect to sponsoring it, but also in so consistently pursuing the background and foundational material.

That material was gathered in conferences with, for example, representatives of the House of Delegates of the American Bar Association and with the house of delegates itself. That effort was followed by many discussions with professors and scholars learned in the law, in addition to the committee hearings themselves.

An effort was made to follow the established procedures of Congress in both bodies for the implementation of the amendment. That was not found to be possible with respect to the time limitation in section 3 which provides for the event of the issue of disability being joined between the President, on the one hand, and the Vice President and a majority of the Cabinet, on the other.

In deciding upon a period of 21 days, I believe we have provided a reasonable time in which the issue can be canvassed and acted upon intelligently.

A new duty has been placed upon Congress. It is a duty that lies upon men and women of good purpose in responding to the needs of their Nation in a time of crisis. It is my hope that the amendment will be consistently unneeded. Nevertheless, such an agreement, as provided in this fashion, is wise, indeed.

So I join the Senator from Indiana in urging the Senate to adopt the conference report and to do whatever any of us can do toward urging the legislatures of the several States to ratify the amendment to our organic law, so that it may be duly promulgated and given force and effect.

Mr. BAYH. I thank the Senator from Nebraska for his thoughtful words, but more particularly for the dedicated effort, the long, tiresome hours of hearings and conference work, and the constant writing and rewriting that were necessary to reach the end of the tortuous journey we have been making.

Mr. KENNEDY of New York. Mr. President, I congratulate the junior Senator from Indiana [Mr. BAYH] on the outstanding job he has done in shepherding Senate Joint Resolution 1 from the realm of abstract proposal to its re-

alization today. Along the way he consulted with a great number of people about this problem, and he heard a considerable variety of ideas on how it should be solved. It is to his credit that he was able, with patience and diplomacy, to resolve these differences.

I call to the Senate's attention a most important aspect of Senate Joint Resolution 1 which has not received as much notice as it should have. That is the provision, in section 4, which gives Congress authority to provide by law for a body other than the Cabinet to determine the inability of the President to exercise the powers and duties of his office when he is unwilling to make the declaration of inability himself.

This provision was wisely added by the framers of Senate Joint Resolution 1 because of the doubts which some people voiced as to the workability of using the Cabinet as the body to determine the President's inability. Now that we are finally enacting Senate Joint Resolution 1, we must not cease thinking about this aspect of the inability problem. We must keep in mind that we have given Congress the power to provide a different body to determine Presidential inability, and we should engage in a continuing study of whether there is some better way to handle this very difficult matter.

The need to engage in continuing reexamination of whether the Cabinet is the best available body to determine Presidential inability is demonstrated by certain historical evidence which I call to the Senate's attention today.

I refer to the facts surrounding the resignation of Robert Lansing as President Wilson's Secretary of State. These facts were brought to my attention by Mr. Allen Dulles, who has served the Government for many years in many capacities. Secretary Lansing was his uncle, and Mr. Dulles has made available certain relevant correspondence and memorandums, which are now on deposit at Princeton University and are not yet available to the public.

Together with Secretary Lansing's correspondence with President Wilson at the time of the resignation—which is a matter of public record—these documents are interesting and revealing.

President Wilson fell ill during the latter months of 1919. Mr. Lansing, after consultation with other members of the Cabinet, decided that it was necessary for the Cabinet to meet and carry on the affairs of Government as best it could. About 25 meetings had taken place, over a period of some 4 months, when Wilson wrote to Lansing, charged him with usurpation of Presidential powers because of the Cabinet meetings, and asked for his resignation. After an exchange of letters, Lansing did resign.

There were other reasons for friction between Lansing and Wilson. They were at odds over the negotiation of the Treaty of Versailles and subsequent congressional consideration of the treaty. Nevertheless, Wilson's inference that the Presidential Cabinet had usurped power demonstrates the wisdom of the framers of this amendment in leaving open to further consideration the question of who should decide when the President is disabled.

For the point of the Wilson incident is that, even though no procedure there existed for declaring a President to be disabled and even though there was no evidence of any overt attempt to usurp the powers of the President, the ailing President nevertheless decided to dispose of any Cabinet member who seemed to present a threat. More serious conflict might follow, in a comparable situation, now that a procedure for determining disability is established. Indeed, a President might fire his entire Cabinet.

This is a matter concerning which I have had numerous conversations with the Senator from Indiana.

It is true that the committee reports and other legislative history make it quite clear that, for purposes of Senate Joint Resolution 1, the Deputies or Under Secretaries in the various departments would, when there clearly are vacancies in the Cabinet, become acting heads of the departments until new principal officers were confirmed, or, if Congress were not in session, until recess appointments were made. I believe this legislative history is extremely important, but if the President did become involved in this kind of dispute with his Cabinet the situation would nonetheless be most difficult and disruptive, especially in a period of crisis for the United States either domestically or with other countries around the world.

What could ensue is a conflict as to who is actually acting as President at a particular time.

The question that might arise is whether the President had, in fact, fired the Cabinet at the time they had met and decided to put in a new President. What we could end up with, in effect, would be the spectacle of having two Presidents both claiming the right to exercise the powers and duties of the Presidency, and perhaps two sets of Cabinet officers both claiming the right to act.

Thus there are dangers in the amendment, with all due respect to the Senator from Indiana. Nevertheless, I believe we should go forward, since the dangers involved in not enacting Senate Joint Resolution 1 are greater still and we do not know whether a procedure better than Cabinet determination can be found. Certainly if one were now possible, I believe the Senator from Indiana would have found it.

The Senator has wisely left open the way to further improvement. I urge that the Congress follow his lead, and move directly to continued examination of alternate procedures, to be enacted by the Congress, for determining when a President is unable to dicharge the duties of his office.

Mr. BAYH. Mr. President, first of all, I am indebted to the Senator from New York, and so is the Senate, not only for his present statement, but also for the discussion which he stimulated on the floor when we were considering the measure for passage earlier this year. The Senator points out very correctly that there is a degree of flexibility in this measure.

I am not so bold as to suggest that this is a perfect amendment. I believe that its perfection is based upon the ability of the men living at the time when the measure must be used to cope successfully with the problems and contingencies with which they are confronted. For that reason, we believed that the Cabinet, as we see it now, is the best body to serve as a check. However, we might be wrong. Why close the door? Why not leave us a degree of leeway so that when Congress is confronted with different circumstances than we presently foresee, it could designate a different body and give it authority to act.

Mr. KENNEDY of New York. Mr. President, as I said to the Senator from Indiana, I have strong reservations about the use of the Cabinet in this matter. I believe that the Senator from Indiana has considered my suggestions and every other suggestion and recommendation which he has received.

I praise the Senator for coming forward with this legislation, for which he is more responsible than anyone else. I should like to ask a series of questions of the Senator from Indiana on another aspect of the proposed constitutional amendment. I think this would help in clarificating another important issue.

I go back to the colloquy which took place on the floor of the Senate when the matter was considered a month or so ago. Is it not true that the inability to which we are referring in the proposed amendment is total inability to exercise the powers and duties of the office?

Mr. BAYH. The inability that we deal with here is described several times in the amendment itself as the inability of the President to perform the powers and duties of his office.

It is conceivable that a President might be able to walk, for example, and thus, by the definition of some people, might be physically able, but at the same time he might not possess the mental capacity to make a decision and perform the powers and duties of his office. We are talking about inability to perform the constitutional duties of the office of President.

Mr. KENNEDY of New York. And that has to be total disability to perform the powers and duties of office.

Mr. BAYH. The Senator is correct. We are not getting into a position, through the pending measure, in which, when a President makes an unpopular decision, he would immediately be rendered unable to perform the duties of his office.

Mr. KENNEDY of New York. Is it limited to mental inability to make or communicate his decision regarding his capacity and mental inability to perform the powers and duties prescribed by law?

Mr. BAYH. I do not believe that we should limit it to mental disability. It is conceivable that the President might fall into the hands of the enemy, for example.

Mr. KENNEDY of New York. It involves physical or mental inability to make or communicate his decision regarding his capacity and physical or mental inability to exercise the powers and duties of his office.

Mr. BAYH. The Senator is correct. That is very important. I would refer

the Senator back to the definition which I read into the RECORD at the time the Senate passed this measure earlier this year.

Mr. KENNEDY of New York. It was that definition which I was seeking to reemphasize. May I ask one other question? Is it not true that the inability referred to must be expected to be of long duration, or at least one whose duration is uncertain and might persist?

Mr. BAYH. Here again I think one of the advantages of this particular amendment is the leeway it gives us. We are not talking about the kind of inability in which the President went to the dentist and was under anesthesia. It is not that type of inability we are talking about, but the Cabinet, as well as the Vice President and Congress, are going to have to judge the severity of the disability and the problems that face our country.

Perhaps the Senator from New York would like to rephrase the question.

Mr. KENNEDY of New York. Is it not true that what we are talking about here, as far as inability is concerned, is not a brief or temporary inability?

Mr. BAYH. We are talking about one that would seriously impair the President's ability to perform the powers and duties of his office.

Mr. KENNEDY of New York. Could a President have such inability for a short period of time?

Mr. BAYH. A President who was unconscious for 30 minutes when missiles were flying toward this country might only be disabled temporarily, but it would be of severe consequence when viewed in the light of the problems facing the country.

So at that time, even for that short duration, someone would have to make a decision. But a disability which has persisted for only a short time would ordinarily be excluded. If a President were unable to make an Executive decision which might have severe consequences for the country, I think we would be better off under the conditions of the amendment.

Mr. KENNEDY of New York. The Senator realizes the complications for the people of this country and the world under those circumstances.

Mr. BAYH. I do, indeed. I also recognize our difficulty if we had no amendment at all. The Senator from New York realizes the consequences in that case. The Senator is aware of the time limitations which give the President a certain amount of leeway now. If he recovers from the illness within the time limitations, he would have protection under the amendment.

Mr. KENNEDY of New York. As I said at the beginning, I believe there should be a continuing study of the problem. Based on my own personal experience and on what was brought out in the hearings, I believe that members of the Cabinet could be subjected to political strains of one kind or another under certain circumstances of danger which might arise for the United States. They might be impelled to challenge the President's ability and capacity for the wrong reasons. And when we think of the great crisis in 1919 with President Wilson and Mr. Lansing, it is apparent that under the procedure set out in section 4 of Senate Joint Resolution 1 there could actually be a question as to who was acting as President of the United States at a particular time. That is why this subject should receive continuing study by this body to determine whether an alternative to the Cabinet's acting could be evolved.

What if the President of the United States made a decision which was very unpopular with members of his Cabinet?

I think back to the time of Abraham Lincoln in 1863. I think back to the time of President Andrew Johnson, and recall how unpopular he was with all the members of his Cabinet. They could have taken action, under the slightest pretext, to have him removed. Even with all the protections provided, I say the situation is dangerous. We would be deluding ourselves in thinking that by adopting the amendment the danger to our people and the people around the world would disappear, because a danger would still exist. The subject deserves our continuing effort and attention.

Mr. BAYH. I agree. There is leeway with respect to Congress and the committees and the Cabinet.

In discussing dangers to the people, think of the danger after President Garfield had been felled by a bullet and we had no President for 80 days. The danger of such a situation in this day and age is considerably more than the danger that could arise if the provisions of this amendment were invoked.

Mr. KENNEDY of New York. That is why I intend to support this amendment.

Mr. BAYH. I appreciate the Senator's comments.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. MANSFIELD. Mr. President, will the Senator yield without losing the floor?

Mr. BAYH. I yield.

Mr. MANSFIELD. I ask unanimous consent, for the purpose of providing regular procedure, that the consideration of Calendar No. 352, H.R. 7105, follow consideration of the present conference report.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7105) to provide for continuation of authority for regulation of exports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Mr. BAYH and Mr. MCCARTHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. MCCARTHY. If it were not for the fact that the amendment provides that the Congress of the United States has a right to designate some body other than the Cabinet to pass upon the question of Presidential disability, I could not support the amendment. The Senator from New York has pointed out the necessity, and I hope that the appropriate committees of the Congress and the Congress will give consideration to some other body's passing upon the question of Presidential disability. If that provision were not in the amendment, I could not support the proposed amendment, and I would urge its rejection.

History shows that it is better to have one sane king rather than two who are not, each one of them claiming to be the right king. There is the possibility of a situation in which one man, having been elected President, claims he was capable of exercising the duties of his office, and the other person, the Vice President, engages in a letter-writing contest as to which is the appropriate man. There could be a body other than the Cabinet which should have the ability to make a decision which would have the effect of giving the American public confidence in the person they had approved and a disposition not to accept the authority of someone who would be disapproved.

It is my judgment that it would have been better to follow the recommendations made by the Senator from Illinois [Mr. DIRKSEN] and not try to be so specific as provided in the present amendment.

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. MCCARTHY. I yield.

Mr. KENNEDY of New York. Let us go back to another situation, which I am sure the Senator from Indiana recognizes. A Cabinet decides that a President was disabled. The President fires the Cabinet. The members of the Cabinet say they did not receive notice that they were fired until after they had declared the President disabled. The President says he fired them first. If the Congress is in recess, the President appoints another Cabinet, or else he says the Deputies and Under Secretaries are now the Cabinet. There would be two Presidents and two Cabinets. There would be a conflict as to which ones were the members of the Cabinet and as to whether the members of the first Cabinet had made the decision before or after they were fired by the President.

It is recognized by the proposed legislation that this is a problem. I do not believe the danger disappears by the adoption of the amendment. I do not think, when we adopt the measure, that

the problems of our Executive are gone and that we do not have to worry about it any more. We have to continue to worry about it. Although the legislation is better than the situation at the present time, there will be situations which might cause difficulty.

Mr. McCARTHY. Generally speaking, it is better, but there could be worse situations arising under the amendment than there would have been under the indeterminate and vague way in which we could have moved.

The amendment has nothing to say about whether the executive officers who pass on the disability have been confirmed by the Senate. This is a point which might well be included in the amendment. I believe that they have to be executive officers confirmed by the Senate. We would have to work out the making of temporary appointments. The Senator from New York said that we could have two Cabinets. This would something like the old days in Avignon, when there were two Popes, which created a great deal of trouble, the same kind of trouble which was created for many, many years in England when two Kings claimed the crown. It has meant nothing but trouble.

I do not know whether, under this amendment, the executive officers would have to be confirmed by the Senate. They could be temporary appointees, which could be passed upon by the Senate.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from Minnesota yield to the Senator from Tennessee?

Mr. McCARTHY. I yield.

Mr. GORE. The Senator from Minnesota finds some consolation in the fact that, if I have understood him correctly, the amendment provides that Congress could designate another body by law. I invite his attention to the possibility that this could compound the question, because the amendment reads:

> Whenever the Vice President and a majority of either officers of the executive departments or of such other body as Congress may by law provide.

I should like to inquire of the Senator if, in addition——

Mr. McCARTHY. Ask the Senator from Indiana.

Mr. GORE. There would be a possibility of a contest or controversy between the Cabinet that may or may not have been dismissed, and one which may or may not have been confirmed by the Senate. Might there not be the probability of a contest between the two groups which, by the conjunction or, are permitted to perform the same function?

Mr. McCARTHY. I believe that there is great uncertainty as to whether Congress could act and designate some other group, or define the executive officers who were to pass upon this question—officers who would be approved by Congress. But this is an open question. I should like to ask the Senator from Indiana whether this is an open question, or whether there is some uncertainty.

Mr. BAYH. First, let me go into a brief explanation of why this provision was included. This was the result of the consensus meeting with scholars and ex-Attorneys General whom I shall not bother to enumerate, trying for the first time in congressional history to weld together the 42 different proposals which previously came before Congress. This has always been historically a problem, in trying to reach agreement and to reconcile the differences in order to obtain a two-thirds majority.

It was felt that if there was an arbitrary Cabinet that completely refused to go along with the fact that the President, who was obviously disabled, was disabled—the condition referred to by the Senator from New York—the President might get wind of it and, although he might be in extremely bad condition, he might manage to have issued a document firing the Cabinet. This would not preclude Congress, in its wisdom, from establishing another panel, perhaps, of the majority and minority leaders of both Houses, the Chief Justice of the Supreme Court. We in our wisdom as Members of Congress, would do so because it is wise. This body, in conjunction with the Vice President, could make its determination.

Mr. McCARTHY. In the meantime, who would control the Army, Navy, and Air Force?

Mr. BAYH. The President of the United States.

Mr. McCARTHY. Whoever he might be.

Mr. BAYH. Whoever he might be.

Mr. McCARTHY. Which one might be?

Mr. BAYH. He would be the President until a declaration from the Vice President and a majority of the Cabinet or the other body had been made and received by the Speaker——

Mr. McCARTHY. We do not accept the determination of this body. We are going to set up another body.

Mr. BAYH. That is correct.

Mr. McCARTHY. Congress would have to act quickly to set up another body which might act in such a case.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. The answer of the Senator from Indiana indicates that he is thinking of the possibility of action by Congress at such time, and after such time as there may be an obstinate, nonexistent, or otherwise inactive Cabinet.

As I read the proposed amendment, Congress could, by law, provide now, subsequent to approval of this amendment—

Mr. BAYH. The Senator is correct.

Mr. GORE. For such a body. Or, to add still further to the uncertainty, it could await such time as the Senator has foreseen when, because of uncertainties, or because of uncertainties which are not now unforeseen. Congress could act at that time.

Mr. McCARTHY. I am not sure whether this body could not be a body within the Congress itself.

Mr. GORE. Will the Senator yield once more?

Mr. McCARTHY. I am glad to yield to the Senator from Tennessee.

Mr. GORE. This is done specifically for the purpose of giving Congress a certain amount of leeway which the Senator from Minnesota feels it should have?

Mr. BAYH. I should be glad to respond to that. Any time Congress in its wisdom thought it necessary, if further discussion and deliberation on this issue by Congress led it to believe that another body should be established, it could establish it.

Mr. GORE. Do I correctly understand the able Senator to say that Congress could, immediately upon adoption of this constitutional amendment, provide by law for such a body as herein specified and that, then, either a majority of this body created by law or a majority of the Cabinet could perform this function?

Mr. BAYH. No. The Cabinet has the primary responsibility. If it is replaced by Congress with another body, the Cabinet loses the responsibility, and it rests solely in the other body.

Mr. GORE. But the amendment does not so provide.

Mr. BAYH. Yes, it does. It states—

Mr. GORE. The word is "or."

Mr. BAYH. It says "or." It does not say "both." "Or such other body as Congress may by law prescribe."

I wish the RECORD to be abundantly clear that that is the case. I am glad the Senator brought up that point. I believe that this colloquy on that point is important and should be added to that already in the RECORD.

The Cabinet, upon enactment of ratification, has the responsibility, unless Congress chooses another body, at which time that other body, and that other body alone, working in conjunction with the Vice President, has the responsibility. Indeed, Congress may choose a third body.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. I suppose it might be possible to read legislative intent into this conjunction, but——

Mr. BAYH. If I may interrupt here—let me read the exact wording: "and a majority of either the principal officers of the executive departments or—"

Either/or "of such other body as Congress may by law provide."

So when there is an "either/or" solution, it nails it down to one or the other.

Mr. GORE. It seems to me that if it is "either/or" it places the two on a par——

Mr. BAYH. I do not see how that would be the case at all. The Cabinet has the responsibility. What if Congress by law should provide for another body that it feels should have the responsibility?

Mr. GORE. Then it has such a responsibility, too.

Mr. BAYH. Then it has such a responsibility, too.

Mr. McCARTHY. Could we not have both?

Mr. BAYH. If we have one or the other, we do not have both. If I have apples or pears, I do not have both.

Mr. McCARTHY. Under the language of the amendment we could keep the

gone out of existence this past year, or have become too old for use. No one has built any new ones.

We have had this bill before the Senate before—as the Senator will remember—and we used to count noses and found out that everyone east of the Mississippi would vote against the bill, and everyone west of the Mississippi would vote for it. There were just more Senators east of the Mississippi in the Senate than there were west of the Mississippi. So we used to hold hearings every year, and on the floor of the Senate both sides almost gave it up, but the situation is getting so bad overall that now the southern railroads are feeling the terrible pinch on freight cars.

It may be that this action will stimulate everyone to do a little more in this field.

Mr. HRUSKA. The situation has been described correctly. For years, in the Middle West, we have felt that the railroads there have furnished more than their share, certainly a very generous share, of the cars, considering the mileage and the freight that they generate. However, there has always been the cry that the other railroads did not do their share.

When the Senator from Kansas held the hearings in my home city of Omaha, that same song was sung once again. The conclusion was expressed that something must be done in a fundamental way. We are sure that this bill will represent some real progress.

Mr. ALLOTT. Mr. President, I compliment the chairman of the committee on bringing the bill to the floor. The problem has recurred every year that I can recall. Each year we have been faced with a boxcar shortage. The facts which the chairman and the Senator from Nebraska have recited have been recited over and over again. There has always been the feeling, because there has not been a sufficient daily rate charged, that certain railroads were furnishing more than their share of the boxcars. Our railroads in the West have always felt that they were furnishing more than their share of boxcars.

Mr. MAGNUSON. They were.

Mr. ALLOTT. The figures seem to support the statement that they were.

Now we get to the point where the ICC will be able to do something about the problem. Through the past few years the distinguished chairman [Mr. MAGNUSON] and some of us in the Midwest have had numerous conferences with the ICC. They have moved in some people on an emergency basis, and I believe they have done everything that they could do under the law and under the circumstances to alleviate the situation.

Now we have put in the Commission's hands the power to do something about it.

I would be remiss in paying my respects to the chairman and to the distinguished Senator from Nebraska [Mr. HRUSKA], who has done so much work on this situation in the last few years, if I did not also say to the distinguished Senator from Kansas [Mr. PEARSON] that we in Colorado were deeply appreciative for having been given the opportunity to have a hearing held there, at which our people could testify. Some of that testimony bears out the statements that have been made on the floor. My junior colleague from Colorado has also been very much interested in this subject. I believe we are moving in the right direction.

Mr. DOMINICK. Mr. President, I appreciate the courtesy of the Senator from Washington. He has been working on this problem for about 17 years. It must be a great relief to him to get the bill to the floor and in a position where it is almost assured of passage.

While we are passing out accolades, in addition to the junior Senator from Connecticut, who has spearheaded drives in this field, in which I have participated, I also wish to say a word in behalf of the Senator from New Hampshire [Mr. COTTON], who has been able to bring about a meeting of minds in working out language which helped to avoid some of the internecine fighting that we had before between the railroads in connection with this problem. I know at firsthand that the railroad car shortage is growing worse, instead of better.

The bill is a step in the right direction, even though it may not cure the whole problem overnight. I congratulate the chairman and the Senator from Nebraska and the junior Senator from Kansas and everyone else who has worked on this program of trying to get something done. I am not sure that we have found the whole solution to the problem. I might say to the distinguished chairman that it may be that as time goes on, if we find it does not form a right method by which the ICC can work out the problem of getting more boxcars, we shall have to enact some kind of incentive program. However, that is for the future. At least, this is a step in the right direction. I congratulate everyone.

Mr. MAGNUSON. Mr. President, when the Senator from Colorado said that this problem has been with us 17 years, I was reminded that it has indeed been with us for a long time. When the distinguished Senator was holding his hearings, the former chairman of the Committee on Commerce, Ed Johnson, from the State of Colorado, former Governor of the State, said, when the hearing was scheduled, that this was one hearing he wanted to attend. He did.

Mr. DOMINICK. I remember that during one of the hearings the chairman himself said that the first record we had of complaints in the Senate, at least written records, concerning the shortage of boxcars, was in 1906.

Mr. MAGNUSON. Yes.

Mr. DOMINICK. The problem has been with us for a long time.

Mr. MILLER. Mr. President, I wish to add my commendation to the chairman for taking action on the bill. I would have preferred to have the bill left as it was. I recognize the problems the chairman had with the bill. Perhaps there is a need at this time to have a modification of it. I trust that if the results are not what we hope they will be, the chairman of the committee will keep an open mind on the subject for possible future changes, which will alleviate the problem. I am sure he will do so.

Mr. MAGNUSON. We shall have another go at it.

Mr. MILLER. That is a fair approach. I thank the chairman for taking action in support of the bill. I support his action.

Mr. CURTIS. Mr. President, this measure is designed to help alleviate the boxcar shortages which each year create acute hardships in Nebraska and other Farm Belt States. I am pleased to be listed as sponsor or cosponsor. All Nebraskans are very grateful to Chairman MAGNUSON of the Committee on Commerce for his consideration of this problem.

It is important that Congress enact legislation which would help assure the midwestern grain industry of an adequate supply of cars to ship their product when it is ready for shipment, and which would help avoid losses occasioned by shortages of this equipment.

I will not dwell upon the details of the very simple proposal which would provide an incentive for railroad management to build freight cars essential to the Nation's needs. It would grant authority to the Interstate Commerce Commission to fix rental rates which would provide just and reasonable compensation to freight car owners and it would encourage the acquisition and maintenance of a car supply sufficient to meet the needs of both commerce and the national defense.

I wholeheartedly endorse this proposal, and I urge its passage to offer relief to an important segment of our economy.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the amendments of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the United States Constitution relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF VICE PRESIDENT—CONFERENCE REPORT

Mr. BAYH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitu-

tion of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of June 29, 1965, p. 14587, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. BAYH. Mr. President, we have before us for final passage Senate Joint Resolution 1, which is a proposal to amend the Constitution to assure Presidential succession and authority in our Government.

The progress of the bill has been the result of the labors of many persons, particularly the President of the United States, the leadership of this body, the leadership of the House of Representatives, the executives of the American Bar Association, and my colleagues on the Judiciary Committee, with particular emphasis upon those who labored on the Subcommittee on Constitutional Amendments.

The measure was introduced by myself on behalf of myself and many other Senators. It has been slightly modified from the form in which it was introduced in December 1963. Since then it has been the subject of two sets of hearing before the Senate Subcommittee on Constitutional Amendments. It has been studied by the full Committees on the Judiciary of both the House and the Senate. It was twice passed in the Senate by unanimous yea and nay votes, and it was overwhelmingly approved by the other body.

Earlier this year the proposed amendment received the full support of the President of the United States. Earlier it had been endorsed, as was brought out in some detail in the debate which ensued in this body, by such distinguished nongovernmental groups as the American Bar Association.

At long last the Senate and House conferees have completed their studies of the proposed amendment. A short while ago the conference report was approved by the House of Representatives. All that remains is for this body to approve the conference report, and then the measure will be sent to the States for ratification.

If the Senate acts affirmatively, it will be the 11th time in the past 90 years that Congress has submitted a proposed amendment to the Constitution to the several States. Of the last 10 that have been submitted, 9 have been ratified.

We have every reason to believe that the States will look with favor upon the proposed amendment, which is not designed really to alter the Constitution, but rather to fill a void in that great document which has existed for 178 years. As all of us know, the amendment is designed to do three specific things. I should like hastily to review the three purposes:

First, the proposed amendment would make forever clear that when the office of President becomes vacant, the Vice President shall become President, not merely Acting President. We would clearly state in the Constitution what has become precedent through the actions of Vice President Tyler following the death of the then President Harrison.

Second, if the office of Vice President should become vacant, the proposed amendment would provide a means to fill that office so that we would at all times have a Vice President of the United States.

Third, the proposed amendment would provide a means by which the Vice President may assume the powers and duties of the Chief Executive when the President is unable to do so himself.

The conference report, which has now been approved by the House of Representatives, contains certain changes from the proposal which the Senate approved earlier this year by a vote of 72 to 0. I should like to describe those changes and then urge approval of the conference report by this body.

In the Senate version of the measure we prescribed that all declarations concerning the inability of the President or of his ability to perform the powers and duties of that office, particularly a declaration concerning his readiness to resume the powers and duties of his office made by the President of the United States himself, be transmitted to the Speaker of the House and to the President of the Senate.

The conference committee report proposes that those declarations go to the Speaker and to the President pro tempore of the Senate. The reason for the change is, of course, that the Vice President, who is also the President of the Senate, would be participating in making a declaration of presidential inability, and therefore would be unable to transmit his own declaration to himself. In addition, I believe that we would be on better legal ground not to send the declaration to a party in interest. The Vice President, who would be shortly assuming or seeking to assume the powers and duties of the office, would indeed be a party in interest.

In the Senate version of the bill we did not specify that if the President were to surrender his powers and duties voluntarily—and I emphasize the word "voluntarily"—he could resume them immediately upon declaring that his inability no longer existed. We believe that our language clearly implied this. Certainly the intention was made clear in the debate on the question on the floor of the Senate and in the record of our committee hearings, but the Attorney General of the United States requested that we be more specific on this point so as to encourage a President to make a voluntary declaration to the effect that he was unable to perform the powers and duties of the office, if it was necessary for him to do so.

We made that point clear in the conference committee report.

We added specific language enabling the President to resume his powers and duties immediately, with no waiting period, if he had given up his powers and duties by voluntary declaration.

That had been the intention of the Senate all along, as I recall the colloquy which took place on the floor of the Senate; and we had no objection to making that intention crystal clear in the wording of the proposed constitutional amendment itself.

In the Senate version we prescribed that the President, having been divested of his powers and duties by declaration of the Vice President and a majority of the Cabinet, or such other body as Congress by law may provide, could resume the powers and duties of the office of President upon his declaration that no inability existed, unless within 7 days the Vice President and a majority of the Cabinet or the other body issued a declaration challenging the President's intention. The House version prescribed that the waiting period be 2 days. The conference compromised on 4 days, and I urge the Senate to accept that as a reasonable compromise between the time limits imposed by the two bodies.

Furthermore, we have clarified language, at the request of the Senate conferees, to make crystal clear that the Vice President must be a party to any action declaring the President unable to perform his powers and duties.

I remember well the words of President Eisenhower before the American Bar Association conference, when he said that it is a constitutional obligation of the Vice President to help make these decisions. We in the Senate felt that to be the case, and thus changed the language a bit to make it specifically clear.

That, I am sure, had been the intention of both the Senate and the House, but we felt that the language was not specific enough, so we clarified it on that point.

The Senate conferees accepted a House amendment requiring the Congress to convene within 48 hours, if they were not then in session, and if the Vice President and a majority of the Cabinet or the other body were to challenge the President's declaration that he, the Chief Executive, were not disabled or, once again, able to perform the powers and duties of his office.

We feel that the requirement would encourage speedy disposition of the question by the Congress, and I urge its acceptance by the Senate.

Finally, the Senate version imposed longtime limitations upon the Congress to settle a dispute as to whether the President or the Vice President could perform the powers and duties of the office of President. Senators know the question would come to the Congress only if the Vice President, who would then be acting as President, were to challenge, in conjunction with a majority of the Cabinet, the President's declaration that no inability existed. The House version imposed a 10-day time limitation. The Senate conferees were willing to have a time limitation as a further safeguard to the President, but we were unanimous in agreeing that 10

the Senator back to the definition which I read into the RECORD at the time the Senate passed this measure earlier this year.

Mr. KENNEDY of New York. It was that definition which I was seeking to reemphasize. May I ask one other question? Is it not true that the inability referred to must be expected to be of long duration, or at least one whose duration is uncertain and might persist?

Mr. BAYH. Here again I think one of the advantages of this particular amendment is the leeway it gives us. We are not talking about the kind of inability in which the President went to the dentist and was under anesthesia. It is not that type of inability we are talking about, but the Cabinet, as well as the Vice President and Congress, are going to have to judge the severity of the disability and the problems that face our country.

Perhaps the Senator from New York would like to rephrase the question.

Mr. KENNEDY of New York. Is it not true that what we are talking about here, as far as inability is concerned, is not a brief or temporary inability?

Mr. BAYH. We are talking about one that would seriously impair the President's ability to perform the powers and duties of his office.

Mr. KENNEDY of New York. Could a President have such inability for a short period of time?

Mr. BAYH. A President who was unconscious for 30 minutes when missiles were flying toward this country might only be disabled temporarily, but it would be of severe consequence when viewed in the light of the problems facing the country.

So at that time, even for that short duration, someone would have to make a decision. But a disability which has persisted for only a short time would ordinarily be excluded. If a President were unable to make an Executive decision which might have severe consequences for the country, I think we would be better off under the conditions of the amendment.

Mr. KENNEDY of New York. The Senator realizes the complications for the people of this country and the world under those circumstances.

Mr. BAYH. I do, indeed. I also recognize our difficulty if we had no amendment at all. The Senator from New York realizes the consequences in that case. The Senator is aware of the time limitations which give the President a certain amount of leeway now. If he recovers from the illness within the time limitations, he would have protection under the amendment.

Mr. KENNEDY of New York. As I said at the beginning, I believe there should be a continuing study of the problem. Based on my own personal experience and on what was brought out in the hearings, I believe that members of the Cabinet could be subjected to political strains of one kind or another under certain circumstances of danger which might arise for the United States. They might be impelled to challenge the President's ability and capacity for the wrong reasons. And when we think of the great crisis in 1919 with President Wilson and Mr. Lansing, it is apparent that under the procedure set out in section 4 of Senate Joint Resolution 1 there could actually be a question as to who was acting as President of the United States at a particular time. That is why this subject should receive continuing study by this body to determine whether an alternative to the Cabinet's acting could be evolved.

What if the President of the United States made a decision which was very unpopular with members of his Cabinet?

I think back to the time of Abraham Lincoln in 1863. I think back to the time of President Andrew Johnson, and recall how unpopular he was with all the members of his Cabinet. They could have taken action, under the slightest pretext, to have him removed. Even with all the protections provided, I say the situation is dangerous. We would be deluding ourselves in thinking that by adopting the amendment the danger to our people and the people around the world would disappear, because a danger would still exist. The subject deserves our continuing effort and attention.

Mr. BAYH. I agree. There is leeway with respect to Congress and the committees and the Cabinet.

In discussing dangers to the people, think of the danger after President Garfield had been felled by a bullet and we had no President for 80 days. The danger of such a situation in this day and age is considerably more than the danger that could arise if the provisions of this amendment were invoked.

Mr. KENNEDY of New York. That is why I intend to support this amendment.

Mr. BAYH. I appreciate the Senator's comments.

CONTINUATION OF AUTHORITY FOR REGULATION OF EXPORTS

Mr. MANSFIELD. Mr. President, will the Senator yield without losing the floor?

Mr. BAYH. I yield.

Mr. MANSFIELD. I ask unanimous consent, for the purpose of providing regular procedure, that the consideration of Calendar No. 352, H.R. 7105, follow consideration of the present conference report.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 7105) to provide for continuation of authority for regulation of exports, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

Mr. BAYH and Mr. MCCARTHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. MCCARTHY. If it were not for the fact that the amendment provides that the Congress of the United States has a right to designate some body other than the Cabinet to pass upon the question of Presidential disability, I could not support the amendment. The Senator from New York has pointed out the necessity, and I hope that the appropriate committees of the Congress and the Congress will give consideration to some other body's passing upon the question of Presidential disability. If that provision were not in the amendment, I could not support the proposed amendment, and I would urge its rejection.

History shows that it is better to have one sane king rather than two who are not, each one of them claiming to be the right king. There is the possibility of a situation in which one man, having been elected President, claims he was capable of exercising the duties of his office, and the other person, the Vice President, engages in a letter-writing contest as to which is the appropriate man. There could be a body other than the Cabinet which should have the ability to make a decision which would have the effect of giving the American public confidence in the person they had approved and a disposition not to accept the authority of someone who would be disapproved.

It is my judgment that it would have been better to follow the recommendations made by the Senator from Illinois [Mr. DIRKSEN] and not try to be so specific as provided in the present amendment.

Mr. KENNEDY of New York. Mr. President, will the Senator yield?

Mr. MCCARTHY. I yield.

Mr. KENNEDY of New York. Let us go back to another situation, which I am sure the Senator from Indiana recognizes. A Cabinet decides that a President was disabled. The President fires the Cabinet. The members of the Cabinet say they did not receive notice that they were fired until after they had declared the President disabled. The President says he fired them first. If the Congress is in recess, the President appoints another Cabinet, or else he says the Deputies and Under Secretaries are now the Cabinet. There would be two Presidents and two Cabinets. There would be a conflict as to which ones were the members of the Cabinet and as to whether the members of the first Cabinet had made the decision before or after they were fired by the President.

It is recognized by the proposed legislation that this is a problem. I do not believe the danger disappears by the adoption of the amendment. I do not think, when we adopt the measure, that

the problems of our Executive are gone and that we do not have to worry about it any more. We have to continue to worry about it. Although the legislation is better than the situation at the present time, there will be situations which might cause difficulty.

Mr. McCARTHY. Generally speaking, it is better, but there could be worse situations arising under the amendment than there would have been under the indeterminate and vague way in which we could have moved.

The amendment has nothing to say about whether the executive officers who pass on the disability have been confirmed by the Senate. This is a point which might well be included in the amendment. I believe that they have to be executive officers confirmed by the Senate. We would have to work out the making of temporary appointments. The Senator from New York said that we could have two Cabinets. This would something like the old days in Avignon, when there were two Popes, which created a great deal of trouble, the same kind of trouble which was created for many, many years in England when two Kings claimed the crown. It has meant nothing but trouble.

I do not know whether, under this amendment, the executive officers would have to be confirmed by the Senate. They could be temporary appointees, which could be passed upon by the Senate.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

The PRESIDING OFFICER (Mr. HARRIS in the chair). Does the Senator from Minnesota yield to the Senator from Tennessee?

Mr. McCARTHY. I yield.

Mr. GORE. The Senator from Minnesota finds some consolation in the fact that, if I have understood him correctly, the amendment provides that Congress could designate another body by law. I invite his attention to the possibility that this could compound the question, because the amendment reads:

> Whenever the Vice President and a majority of either officers of the executive departments or of such other body as Congress may by law provide.

I should like to inquire of the Senator if, in addition——

Mr. McCARTHY. Ask the Senator from Indiana.

Mr. GORE. There would be a possibility of a contest or controversy between the Cabinet that may or may not have been dismissed, and one which may or may not have been confirmed by the Senate. Might there not be the probability of a contest between the two groups which, by the conjunction or, are permitted to perform the same function?

Mr. McCARTHY. I believe that there is great uncertainty as to whether Congress could act and designate some other group, or define the executive officers who were to pass upon this question—officers who would be approved by Congress. But this is an open question. I should like to ask the Senator from Indiana whether this is an open question, or whether there is some uncertainty.

Mr. BAYH. First, let me go into a brief explanation of why this provision was included. This was the result of the consensus meeting with scholars and ex-Attorneys General whom I shall not bother to enumerate, trying for the first time in congressional history to weld together the 42 different proposals which previously came before Congress. This has always been historically a problem, in trying to reach agreement and to reconcile the differences in order to obtain a two-thirds majority.

It was felt that if there was an arbitrary Cabinet that completely refused to go along with the fact that the President, who was obviously disabled, was disabled—the condition referred to by the Senator from New York—the President might get wind of it and, although he might be in extremely bad condition, he might manage to have issued a document firing the Cabinet. This would not preclude Congress, in its wisdom, from establishing another panel, perhaps, of the majority and minority leaders of both Houses, the Chief Justice of the Supreme Court. We in our wisdom as Members of Congress, would do so because it is wise. This body, in conjunction with the Vice President, could make its determination.

Mr McCARTHY. In the meantime, who would control the Army, Navy, and Air Force?

Mr. BAYH. The President of the United States.

Mr. McCARTHY. Whoever he might be.

Mr. BAYH. Whoever he might be.

Mr. McCARTHY. Which one might be?

Mr. BAYH. He would be the President until a declaration from the Vice President and a majority of the Cabinet or the other body had been made and received by the Speaker——

Mr. McCARTHY. We do not accept the determination of this body. We are going to set up another body.

Mr. BAYH. That is correct.

Mr. McCARTHY. Congress would have to act quickly to set up another body which might act in such a case.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. The answer of the Senator from Indiana indicates that he is thinking of the possibility of action by Congress at such time, and after such time as there may be an obstinate, nonexistent, or otherwise inactive Cabinet.

As I read the proposed amendment, Congress could, by law, provide now, subsequent to approval of this amendment—

Mr. BAYH. The Senator is correct.

Mr. GORE. For such a body. Or, to add still further to the uncertainty, it could await such time as the Senator has foreseen when, because of uncertainties, or because of uncertainties which are not now unforeseen. Congress could act at that time.

Mr. McCARTHY. I am not sure whether this body could not be a body within the Congress itself.

Mr. GORE. Will the Senator yield once more?

Mr. McCARTHY. I am glad to yield to the Senator from Tennessee.

Mr. GORE. This is done specifically for the purpose of giving Congress a certain amount of leeway which the Senator from Minnesota feels it should have?

Mr. BAYH. I should be glad to respond to that. Any time Congress in its wisdom thought it necessary, if further discussion and deliberation on this issue by Congress led it to believe that another body should be established, it could establish it.

Mr. GORE. Do I correctly understand the able Senator to say that Congress could, immediately upon adoption of this constitutional amendment, provide by law for such a body as herein specified and that, then, either a majority of this body created by law or a majority of the Cabinet could perform this function?

Mr. BAYH. No. The Cabinet has the primary responsibility. If it is replaced by Congress with another body, the Cabinet loses the responsibility, and it rests solely in the other body.

Mr. GORE. But the amendment does not so provide.

Mr. BAYH. Yes, it does. It states—

Mr. GORE. The word is "or."

Mr. BAYH. It says "or." It does not say "both." "Or such other body as Congress may by law prescribe."

I wish the RECORD to be abundantly clear that that is the case. I am glad the Senator brought up that point. I believe that this colloquy on that point is important and should be added to that already in the RECORD.

The Cabinet, upon enactment of ratification, has the responsibility, unless Congress chooses another body, at which time that other body, and that other body alone, working in conjunction with the Vice President, has the responsibility. Indeed, Congress may choose a third body.

Mr. GORE. Mr. President, will the Senator from Minnesota yield?

Mr. McCARTHY. I yield.

Mr. GORE. I suppose it might be possible to read legislative intent into this conjunction, but——

Mr. BAYH. If I may interrupt here—let me read the exact wording: "and a majority of either the principal officers of the executive departments or—"

Either/or "of such other body as Congress may by law provide."

So when there is an "either/or" solution, it nails it down to one or the other.

Mr. GORE. It seems to me that if it is "either/or" it places the two on a par——

Mr. BAYH. I do not see how that would be the case at all. The Cabinet has the responsibility. What if Congress by law should provide for another body that it feels should have the responsibility?

Mr. GORE. Then it has such a responsibility, too.

Mr. BAYH. Then it has such a responsibility, too.

Mr. McCARTHY. Could we not have both?

Mr. BAYH. If we have one or the other, we do not have both. If I have apples or pears, I do not have both.

Mr. McCARTHY. Under the language of the amendment we could keep the

Cabinet and set up another body. We could run it through two or three bodies, and have the Cabinet act and then have the other body act.

Mr. BAYH. Whatever body acts should act quickly.

Mr. McCARTHY. The Vice President would have to act with either body. We might have a Vice President who would be reluctant to take office, and the Government would be paralyzed, unless the Vice President were willing to say, "I believe the President is not able to act."

Mr. BAYH. It would be possible to impeach the President and the Vice President.

Mr. McCARTHY. It would not be possible to impeach the Vice President unless he were not willing to preside over the Senate or to vote in the case of a tie.

Mr. BAYH. We cannot put the Vice President in office if he is unwilling to assume the office.

Mr. McCARTHY. He might be suffering from inability himself, even before the President. I believe the amendment should provide that the elected officers of the Government, of the House and Senate, should decide that the President is unable to fulfill the duties of his office, and we ought to be able to move directly.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. McCARTHY. I yield.

Mr. COOPER. Mr. President, I should like to direct questions to the distinguished Senator from Indiana, who is managing the conference report. I join with all my colleagues in paying tribute to the Senator for sponsoring the proposed constitutional amendment and for his persistent effort to bring it to final action. I raise these questions with respect to particular phraseology of the amendment. I quote this language:

> Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate.

And so forth. The language is repeated in the next paragraph.

Is it the intention of Congress, as interpreted by the Senator from Indiana, who is in charge of the conference report, that the Vice President and a majority of the principal officers of the executive departments would transmit the information of the President's inability to perform his duties to Congress, unless Congress had by legislative action provided for the establishment of another body to perform this function?

Mr. BAYH. I should like to answer the Senator's question by setting up a hypothetical example. If the President became disabled, the Vice President would get the Cabinet together and say, "Gentlemen, I think the best interests of the country would be served if I, reluctant as I am, assumed the powers and duties of President."

The Cabinet, let us assume, would refuse to agree.

Congress, in its wisdom, upon studying the situation, and the obvious physical condition of the President, might judge that the Vice President was correct.

At that particular time Congress might by law set up another body. This body, upon agreeing with the Vice President, again might declare that the President was unable to perform his duties. At this time the Vice President would assume the office of Acting President.

Mr. COOPER. Then it is the intention, that this function and duty shall be that of the Vice President and the Cabinet unless the Congress provides that it shall be performed by another body. Is that correct?

Mr. BAYH. The Senator is correct.

Mr. COOPER. The duty would fall on the Vice President and the Cabinet, unless Congress by law provided that it should be the function of some other body created by Congress. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. COOPER. It is intended that the words "principal officers of the executive departments" mean all the members of the Cabinet?

Mr. BAYH. The Senator is correct. It means the official members of the Cabinet.

Mr. COOPER. In case the Cabinet acted and performed this function, the assent of the Vice President would be required, even though a majority of the Cabinet members were willing to transmit information to the Congress that the President suffered from an inability.

Mr. BAYH. The Vice President must be a party to the decision.

Mr. COOPER. I believe it is well to have an answer to another question. In the event Congress decided to enact legislation to provide that another body, a body other than the Cabinet and the Vice President, should perform this function, would the Vice President be required to concur in the recommendation of such other body?

Mr. BAYH. Yes, he would.

Mr. COOPER. Not unless Congress so provided in legislation that it might enact?

Mr. BAYH. The wording of the amendment would permit two separate agencies, either the Vice President and the Executive Cabinet, or the Vice President and the other body.

Mr. COOPER. As I understood the question raised by the Senator from Tennessee and the Senator from Minnesota, it was their fear that both the Cabinet and the Vice President, and another body which Congress might establish, might claim the authority to perform this function. The question of the Senator from Tennessee [Mr. GORE] expressed concern that the words "either" and "or" might give rise to a situation in which the Vice President and a majority of the Cabinet, and a body which Congress might establish, would both claim the authority to exercise the function. Is there any problem about the use of those words that troubles the Senator from Indiana?

Mr. BAYH. That is a good point to clarify for the RECORD. However, in my mind it is perfectly clear that if I said I would go to the office of either the Senator from Kentucky or the Senator from Tennessee, my statement would not reasonably be interpreted to indicate that I would go to both. It would be either one or the other.

Mr. COOPER. Then the intent of the conference committee was that the language meant that unless another body were established by law, the Vice President and the Cabinet would perform the function; but in the event that Congress should establish another body by law, that body alone would have the authority to exercise the function, and in that event, the Vice President and the Cabinet would be without authority to exercise the function.

Mr. BAYH. It would then be exercised by the Vice President and the other body. The Cabinet would be out of the picture at that time.

Mr. COOPER. I raise another question. Would the Vice President have any part to play in the decision in the event that another body were established?

Mr. BAYH. The answer is "Yes." The Vice President must make a separate determination with either the Cabinet or another body.

Mr. COOPER. In either event the Vice President must participate?

Mr. BAYH. I think it is wise to bring out this point. I wish the RECORD to show that we do not desire two bodies to make the decision with the Vice President. If in its wisdom the Congress should decide that another body should make the determination, in the public interest of the country, as the Senator from New York and the Senator from Minnesota feel would be the case, and the Congress should go to the trouble of passing proposed legislation appointing such another body, at that time the newly created body and not the Cabinet would act with the Vice President.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. GORE. I should like to submit a question to the distinguished senior Senator from Kentucky, who has been a distinguished judge. Suppose in consequence of the amendment Congress should proceed by law to create such a body as has been referred to. Then suppose at some foreseeable period a Vice President should appear before such a body, or with such a body, and that body should decline to act. Would there be any reason why, under the constitutional amendment, the Vice President and a majority of the principal officers of the executive departments could not then act?

Mr. COOPER. That is one of the questions which the Senator from Tennessee originally posed, and it is a question to which I have directed questions to the Senator from Indiana, [Mr. BAYH]. It is easy for one who was not a member of the conference committee and one who is not on the Subcommittee on Constitutional Amendments and did not participate in its work, and one who has not worked on the question as has the distinguished Senator from Indiana and the distinguished Senator from Nebraska [Mr. HRUSKA], to raise questions. I admit it, but I think it important that questions be asked on such an important

matter. It is easy also, with hindsight, to think of better language. But I must say, that I believe the language could be clearer. The answers of the Senator from Indiana have been directed to the intent of the committee respecting the language. The courts pay attention, but not all, to such declarations of intent.

Mr. GORE. If that is what the conferees mean, I suggest that the amendment should so provide. We are not passing on conversations held between the conferees. The Congress is asked to adopt language which provides that—

Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may be law provide.

That is what is before the Senate. Undoubtedly there have been many conferences and colloquies, but the language should be explicit when it becomes a part of the U.S. Constitution.

Mr. COOPER. The reason I directed questions to the Senator from Indiana [Mr. BAYH], was that his answers as the Senator in charge of the bill are important in the interpretation of the amendment.

Mr. BAYH. The language to which the Senator has referred has not been changed one iota from the specific language which was passed by this body. The conference report does not alter that language. Any interpretation of the Constitution, as the Senator knows, includes reference to the record of the debate, the record of the hearings, and specific interpretations placed upon the measure by the Senator in charge of the bill. Those who have been in particular intimate touch with it are those whose statements are considered in an interpretation of the measure. The Senator has made a considerable contribution to the debate by raising that point at the present time.

Mr. COOPER. The statements of the Senator from Indiana are more important than our statements.

Mr. BAYH. I would not go along with the Senator from Kentucky on that.

Mr. COOPER. From a legal standpoint, that is correct, for the Senator from Indiana is the Senator in charge of the bill. The Senator's statements bear upon the intent of the Senate to a greater degree than our statements would.

Mr. BAYH. I have made as crystal clear as I know how that the Vice President must make a determination, and he would make that determination with the Cabinet unless the Congress——

Mr. GORE. But the word "unless" is not in the amendment.

Mr. BAYH. If the Senator from Tennessee would like to listen to my thoughts on the point, I should be glad to state them for the RECORD.

Mr. GORE. But the Senator has used a word that is not in the proposed amendment.

Mr. BAYH. I should be glad to change the word I have used if that would help the Senator. I have not been able to make the interpretation clear by using another word; I thought I would try a little different approach.

Mr. GORE. I can understand the difficulty of making the point clear by using the language of the amendment, because the language of the amendment, in my opinion, does not support the interpretation which the able Senator has given to it. I would be glad, however, to listen to his interpretation.

Mr. BAYH. I really have nothing to offer that I have not already offered—perhaps insufficiently—to the Senator from Tennessee. The Vice President would make the determination with one of two bodies or three bodies. The choice would not necessarily be limited to one other body. The Congress might, in its wisdom 100 years from now, decide to choose the third body. One of those bodies would be the body with which the Vice President would act. Let the RECORD so state. That is what the committee feels. That is what I, as the original sponsor of the measure, feel. That is what the conferees believe. I do not know how we can get into the RECORD a stronger interpretation than that which has been brought out by the penetrating questioning of the Senator from Tennessee.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I am happy to yield.

Mr. GORE. If that is the clear intent of the authors of the amendment and the conferees, why cannot the conferees return to their labors and prepare language that is explicit?

Mr. BAYH. The Senator from Tennessee has been in the halls of this great body much longer than has the junior Senator from Indiana. I do not believe that it is necessary for his extremely junior colleague to point out that we have been 178 years getting a measure on this subject even voted upon in either House of Congress. I do not need to point out that it has been 18 months and more the subject of deliberation by both Houses of Congress to get it thus far. It took us almost almost 2 months in the conference committee alone. I would seriously doubt the wisdom of going back to the conferees to risk undoing everything that has been done—the House already adopted the conference report this afternoon at a quarter after twelve—on the premise that we cannot understand what is in the measure. The Senator from Indiana, with all respect, feels that we have written a very good record as to what that language means, if, indeed, there is any doubt of its proper interpretation. The Senator from Tennessee is a student of law and has expressed doubt. For that reason, we have gone to some length to explain what the interpretation of the language is.

Mr. GORE. If I understand the rule of construction as to legislative intent and the interpretation of that intent is locked to only when there is doubt as to the exact and precise meaning of a statute or constitutional provision.

The able Senator has given us what he regards as the legislative intent. I do not doubt that what he has stated is the legislative intent. But why will the legislative intent be searched out and interpreted to ascertain the meaning of language which states clearly that the Vice President, acting either with a majority of the Cabinet or with a majority of a body created by Congress can certify the disability of the President? Can this mean that Congress could by statute eliminate the function of the Cabinet though it could strip such power from a majority of the Cabinet even though such powers would have been vested by the proposed constitutional amendment?

It seems to me that that is an unreasonable assumption. It is regrettable that for so long a time this constitutional need has not been met. It is to be regretted that 18 months have passed in which this problem has not been dealt with satisfactorily. But I doubt whether that is any excuse to proceed in one afternoon, on the floor of the Senate, to adopt a conference report containing an ambiguous provision, when the author of the amendment himself and the conferees themselves say it does not mean what it says.

Mr. BAYH. The Senator from Indiana does not agree with the Senator from Tennessee that the amendment does not mean what it says. I differ with the interpretation of the Senator from Tennessee. The RECORD will show that the Senate spent almost 7 hours debating the subject earlier in this session, and that the Senator from Tennessee participated in the debate.

I am not saying that reasonable men cannot disagree, but I am saying that, in my estimation, the interpretation is clear. I am further saying that if I am any judge of what Congress might do when confronted with situations provided for in this measure—and the Senator from Tennessee is probably a better judge than I of what this body might do, because he has served considerably longer and with much greater distinction—I presume that our successors on a later scene in this body, if confronted with a situation that they believed the Cabinet could deal with—it might be tomorrow—would, in the enactment of a law specifying another body, be astute enough to use enough words to satisfy themselves that such a body would in fact replace the Cabinet, pursuant to constitutional authority.

The Senator from Tennessee knows that it is much easier to be specific and to provide much greater detail in a statute than in a constitutional amendment. I believe we would have been in error to have written all this language into the Constitution. I believe we have been specific enough to have covered the intent.

Mr. GORE. Is it the Senator's interpretation that the language should read somewhat as follows:

Whenever the Vice President and a majority of either the principal officers of the executive departments or, in the event Congress creates another body pursuant to law, then the Vice President and a majority of such other body as Congress by law shall create—

Mr. BAYH. I see no objection to that interpretation of what is written in the amendment.

Mr. GORE. If that is what is intended, why could not the conferees write it into the amendment? I do not believe the amendment is subject to that kind of interpretation, though, as the Senator says, that is the legislative intent.

Mr. BAYH. I feel, with all due respect to the Senator from Tennessee, that the interpretation is clear that if Congress specifies another body, it will not do so as a lark; it will do so because it wants another body to replace the Cabinet, which would have the primary responsibility until Congress prescribed another body.

The Senator from Tennessee knows that if there were to be a conference for every little misinterpretation that might be involved among 100 Senators, we would never obtain a conference report. The Senator from Tennessee is more aware of this than I, because he was serving on conference committees before I was out of knee pants.

Mr. GORE. I appreciate all the nice compliments, but I doubt if that is a compliment.

Mr. BAYH. The Senator from Indiana intended it to be a compliment, because the Senator from Tennessee knows how much respect the Senator from Indiana has for him.

Mr. GORE. I appreciate the respect; but do not put too much longevity on me.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. JAVITS. I have joined the distinguished Senator from Indiana for a long time in the endeavor to solve the problem and am a cosponsor of Senate Joint Resolution 1. I should now like to propound a series of questions to him, in an endeavor to pinpoint what he has said in the answers he has given to other Senators.

First, would the Vice President, under section 4, have to act with a majority of the principal officers of the executive departments or of the other body that Congress would provide by law, or would he act in and of himself, sending to Congress whatever notices he wished?

Mr. BAYH. It has to be joint action.

Mr. JAVITS. Both have to act; but it does not have to be joint action in the sense that he is presiding over any body.

Mr. BAYH. No.

Mr. JAVITS. He sends his notice and the executive body sends its notice.

Mr. BAYH. Either way; or they could act together.

Mr. JAVITS. But they could act separately.

Mr. BAYH. Yes.

Mr. JAVITS. If they were hostile, they could act separately.

Mr. BAYH. Yes.

Mr. JAVITS. The action must be taken by a majority vote?

Mr. BAYH. Majority vote.

Mr. JAVITS. Suppose they did not like each other. If they separately notified Congress, would that satisfy the amendment?

Mr. BAYH. I think that would satisfy the qualification.

Mr. JAVITS. Congress may, by law, provide for another body. May it provide that that other body shall be the Cabinet?

Mr. BAYH. Yes.

Mr. JAVITS. It may provide at the same time that it shall be the Cabinet only if it is composed of officers whose nominations have been confirmed by the Senate, not temporary appointees.

Mr. BAYH. The Senator from New York brings out a good point.

Mr. JAVITS. So we could do that ourselves by law?

Mr. BAYH. That is correct.

Mr. JAVITS. We could make them the body.

Mr. BAYH. Yes.

Mr. JAVITS. Could we also, by law, say that when we create the body, we settle the question of "either"; that is, that only one can take action; that whatever body we create, it is exclusive?

Mr. BAYH. That is what I was trying to point out.

Mr. JAVITS. Let us point it out now and nail it down.

Mr. BAYH. Congress in its wisdom could, in the enactment of the law, specify that the body should take the place of the Cabinet, and a new Cabinet could be created.

Mr. JAVITS. The body created by Congress is exclusive?

Mr. BAYH. Yes.

Mr. JAVITS. Whether Congress would or would not specify that the body should take the place of the Cabinet neither the Senator from Indiana nor I know. But the point is that Congress could.

Mr. BAYH. That would depend upon the wisdom of those who follow us.

Mr. JAVITS. Congress could make the body it created exclusive?

Mr. BAYH. Yes.

Mr. JAVITS. Twenty-one days are provided in which the Congress must act on determination of Presidential disability. Congress has provided, implicitly under the 21-day limitation, restrictions on a filibuster, a precedent for which is contained in the Reorganization Act.

Mr. BAYH. At the end of the 21-day period, nothing would prevent Congress from continuing to discuss the situation; but at the end of 21 days, the President would resume his office.

Mr. JAVITS. Nonetheless, Congress could protect itself against filibusters by writing an antifilibuster rule into the statute that would be passed to implement the amendment, could it not?

Mr. BAYH. That is correct.

Mr. JAVITS. Congress has done that under the Reorganization Act. The Senator may take my word for that.

Mr. BAYH. Of course. I was trying to tie it in with this particular issue. There would be nothing to preclude Congress from establishing rules as to how to use the 21 days. Congress could incorporate any rule it desired.

Mr. JAVITS. So inaction would restore the President to office.

Mr. BAYH. Yes. We are trying to place a safeguard around the President.

Mr. JAVITS. Why is there not a generic clause providing that Congress shall have power to pass legislation to implement the amendment, as, for example, was done with respect to section 2 of the 14th amendment? I have tried, by the questions and answers that have been propounded and given, to show that there is ample opportunity and ample authority for Congress to act. Will the Senator now tell us whether there was any reason for not having a boilerplate implementing clause with respect to Congress?

Mr. BAYH. Yes; that is a good point. The Senator may recall that we discussed it at some length. When the distinguished Senator from Illinois and the distinguished Senator from Minnesota attempted to remove most, if not all, of the provisions from the bill, sections 3, 4, 5, and 6, as they were before, were incorporated. They do not constitute merely permissive legislation on the part of Congress.

There is considerable discussion among constitutional scholars, the present Attorney General, Attorney General Brownell, and three or four previous Attorneys General who feel doubt as to whether a statute would be constitutional. They say, "Let us not wait until we are confronted with a crisis concerning the disability of the President to have it tested. Let us put it in the bedrock law of the land and eliminate doubt as to whether it is constitutional."

Second—and I believe it is more significant—is the fact that we have tried to provide the President of the United States with the kind of safeguards that he needs when he must make unpopular decisions which are necessary for the safety of our country. For that reason, we have required that the approval of two-thirds of the Senate shall be necessary before the President can be removed from office by impeachment. Thus, a hostile Congress cannot remove a President who is unpopular at the time because of decisions which he has made. Once he is elected President, he serves for 4 years.

If we were to take the statutory means, although it would still require two-thirds of the Senate to remove a President from office under impeachment proceedings, a majority of 51 Senators could remove a President for disability and thus get around the two-thirds safety clause contained in our present impeachment statute. Thus we feel that if we were to have a provision placed in the Constitution requiring the approval of two-thirds of both Houses of the Congress, we would have given the President much more safety than a mere act of Congress, which is the original case, providing that two-thirds of the House and Senate would be required to declare a President disabled rather than a simple majority. This could be changed at any time in our history.

I believe that this is important enough so that we should demand that the approval of two-thirds of the Congress be required before a President could be removed from office.

Mr. JAVITS. Mr. President, the Senator, however, affirms to us that Congress has full latitude to pass the necessary enabling legislation under the authority of what is meant by "such other body as Congress may by law provide."

Mr. BAYH. The Senator is correct.

Mr. JAVITS. Congress has the right to provide for the exclusivity of that body in exercising this authority, as well

as the way in which the body shall exercise that authority, and other pertinent details necessary to the creation of such a body, its continuance, its way of meeting, the rules of the procedure, and the way in which it shall exercise its power.

Mr. BAYH. The Senator is correct.

Mr. GORE. Mr. President, what was the beginning of that question?

Mr. JAVITS. The Senator in charge of the bill affirms to us that Congress, under this amendment, would have full authority to enact a law, not only creating this body, but also giving it exclusivity in respect of its action under this particular amendment, and determining its procedure, how it shall be formed, and so forth.

Mr. GORE. This would not be by terms of the amendment itself, but would be by way of legislative intent?

Mr. JAVITS. No. I should say that it is by the express terms of the amendment itself, by the following words, "such other body as Congress may by law provide."

I believe that the words "by law provide" is what the Senator in charge of the bill is implementing now in his statement concerning what the law which creates this body can cover.

Mr. GORE. Congress could not enact a law which would be superior to a provision of the Constitution.

Mr. JAVITS. Certainly not.

Mr. GORE. This would then be a provision of the U.S. Constitution, let me remind the Senator, which would provide, in explicit language that "Either a majority of the principal officers of the executive department, or such body as the Congress may by law create."

I doubt that the fact that Congress is authorized to create by law another body could reasonably be interpreted as conveying authority and power to deny to a majority of the Cabinet powers that the Constitution would then, by this amendment vest.

Mr. JAVITS. Mr. President, I can only give the Senator my view—and I do this with great humility—and my opinion as a lawyer.

Mr. GORE. I am not as learned as the distinguished Senator, but I believe that my interpretation is reasonable.

Mr. JAVITS. I do not believe so, and I shall explain to the Senator my view. In a situation in which the Congress has conferred, and enacted legislation providing for a new body, and it would be my judgment, if I were a judge sitting on a case involving the constitutionality of that legislation that if that power of Congress were exercised, it was exercised to give exclusivity to the other body. I believe that the court would construe this amendment to most feasibly accomplish the purpose of Congress. As the purpose of Congress is to settle this kind of issue, rather than leave it in a great area of uncertainty and controversy, would it not be completely contrary to the purpose of Congress to create two bodies which could compete with one another?

I believe that the construction which the courts would give to what we are doing is that if the Congress were to exercise the authority that the amendment would give, the courts would hold that that body has exclusivity as to its action.

That is my opinion as a lawyer, and I have submitted my reasons to the Senator.

Mr. GORE. The Senator speaks quite ably, and whether he is a judge, a citizen, a Senator, or a practicing attorney, I respect his opinion.

The points that I raise concern the justification for throwing this ambiguous question into the courts.

The time to be explicit is when we write an amendment into the Constitution. I say quite frankly to the Senator that I am unprepared to see this amendment approved in this uncertain way, with only a few Senators on the floor.

I should like to see the proposal examined further, to my own possible satisfaction, to determine the exclusivity to which the Senator refers. I am not sure that comports with the rules of construction.

Mr. JAVITS. I should welcome the Senator's researching the matter. I have no quarrel whatever with the desire of the Senator to examine into the question carefully.

I am satisfied that this is what the proposal would do. I am speaking only for myself. I have great respect and regard for the Senator. I would stand aside to enable the Senator to satisfy himself by appropriate research to determine whether this is the way in which it should be handled.

Mr. COOPER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. COOPER. Mr. President, a few moments ago when I addressed questions to the Senator from Indiana, my purpose was the same as that of the Senator from New York, to ascertain that if the first procedure were followed—which concerns the Cabinet and the Vice President, whether it would possess exclusivity in its authority to act; and to ascertain if Congress were to create another body, such a body would have the exclusivity to which the Senator has referred.

I agree wholeheartedly, with the position of the Senator from New York, and also with his view that the courts would consider the purpose of the proposed amendment and not do an exercise in futility.

I believe that it would be unreasonable to follow any other position.

I ask the Senator if in his good judgment he believes that the language which proposes the alternative procedure is ambiguous of such ambiguity as to create a situation in which it would be unclear as to whether the Vice President and the Cabinet or the Vice President and the body established by the Congress would have authority to act. Such a situation would be the last thing that we would desire.

Mr. JAVITS. I do not believe it is so ambiguous as to make it unclear. It is not the optimum nor the most precise language. Every Senator and lawyer may have his opinion, and my colleague from Kentucky, in my judgment, yields to no other Senator in his distinction as a lawyer but to me it is not so ambiguous as to be unclear. It is not the optimum language that I or the Senator from Tennessee or the Senator from Kentucky or other Senators might have sought but I feel that I could vote for it in good conscience.

I agree with what the Senator has said. I do not see any earth-shaking necessity for not having a delay of a few days to look it over; but if I had to vote this afternoon, I would feel in good conscience that I could vote "yea."

Mr. GORE. Mr. President, if the Senator will yield, is there any necessity to vote this afternoon?

Mr. JAVITS. That has not been determined. But, as I have said, if I had to, I would vote for it.

Mr. GORE. The Senator from New York has raised a serious question. The Senator from Minnesota has raised a serious question. The Senator from Kentucky and the Senator from Tennessee have expressed doubts. It seems to me we could give this matter a little more consideration than I admit I have given it. Perhaps I have been derelict in my duty in not studying it more before now, but, as I listened to questions raised by the Senator from New York and the Senator from Minnesota and began to read and study the conference report, I detected language that seemed to me to be uncertain, if not ambiguous.

Mr. BAYH. Of course, the Senate of the United States is the world's greatest deliberative body. If my colleagues feel it should be debated more, I believe we should do so. I have tried, and will continue, to listen to every argument. However, I have studied this measure enough to know—and I say this from the bottom of my heart—that if we ever expect to have a constitutional amendment on this important question, the most complicated and intricate issue that we have ever tried to put into the Constitution, because of all the medical ramifications and power struggles that might exist—if we ever intend to get a measure with respect to which there will not be a scintilla of controversy, with very specific wording, we might as well terminate the debate and throw this year and a half's work in the ashcan, because we are not going to do it.

I have never pretended to the Senate or to my colleagues that this measure is noncontroversial or that it would cover every possible, conceivable contingency that the mind of man could contrive. I have suggested that it is the best thing we have been able to come up with, and it is so much better than anything we have ever had before—namely, nothing—that I dislike to see us, by delay, jeopardize the great protection we would get by this constitutional amendment.

Mr. GORE. Mr. President, will the Senator yield?

Mr. BAYH. I am glad to yield.

Mr. GORE. I would not expect an amendment to be drafted to meet the imagination of all. The point I raise here is that the able Senator brings to us the intent of the amendment which, in my view, is not supported by the language of the amendment.

COMMITTEE ON WAYS AND MEANS

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight Wednesday, July 7, 1965, to file a report on the bill H.R. 4750, to provide a 2-year extension of the interest equalization tax and for other purposes, as amended.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT

Mr. CELLER submitted the following conference report and statement on the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office:

CONFERENCE REPORT (H. REPT. No. 584)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice Presidency and to cases where the President is unable to discharge the powers and duties of his office, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"ARTICLE —

"SECTION 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

"SEC. 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

"SEC. 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

"SEC. 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

"Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as acting President; otherwise, the President shall resume the powers and duties of his office."

And the House agree to the same.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

BIRCH E. BAYH, JR.,
JAMES O. EASTLAND,
SAM J. ERVIN, JR.,
EVERETT M. DIRKSEN,
ROMAN L. HRUSKA,
Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The House passed House Joint Resolution 1 and then substituted the provisions it had adopted by striking out all after the enacting clause and inserting all of its provisions in Senate Joint Resolution 1. The Senate insisted upon its version and requested a conference; the House then agreed to the conference. The conference report recommends that the Senate recede from its disagreement to the House amendment and agree to the same with an amendment, the amendment being to insert in lieu of the matter inserted by the House amendment the matter agreed to by the conferees and that the House agree thereto.

In substance, the conference report contains substantially the language of the House amendment with a few exceptions.

Sections 1 and 2 of the proposed constitutional amendment were not in disagreement. However, in sections 3 and 4, the Senate provided that the transmittal of the notification of a President's inability be to the President of the Senate and the Speaker of the House of Representatives. The House version provided that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives. The conference report provides that the transmittal be to the President pro tempore of the Senate and the Speaker of the House of Representatives.

In section 3, the Senate provided that after receipt of the President's written declaration of his inability that such powers and duties would then be discharged by the Vice President as Acting President. The House version provided the same provision except it added the clause "and until he transmits a written declaration to the contrary." The conference report adopts the House language with one minor change for purposes of clarification by adding the phrase "to them," meaning the President pro tempore of the Senate and the Speaker of the House.

The first paragraph of section 4, outside of adopting the language of the House designating the recipient of the letter of transmittal be the President pro tempore of the Senate and the Speaker of the House of Representatives, minor change in language was made for purposes of clarification.

In the Senate version there was a specific section—namely, section 5—dealing with the procedure that, when the President sent to the Congress his written declaration that he was no longer disabled, he could resume the powers and duties of his office unless the Vice President and a majority of the principal officers of the executive departments, or such other body as the Congress might by law provide, transmit within 7 days to the designated officers of the Congress their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon, the Congress would immediately proceed to decide the issue. It further provided that, if the Congress determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President would continue to discharge the same as Acting President; otherwise, the President would resume the powers and duties of his office.

The House version combined sections 4 and 5 into one section, now section 4. Under the House version, the Vice President had 2 days in which to decide whether or not to send a letter stating that he and a majority of the officers of the executive departments, or such other body as Congress may by law provide, that the President is unable to discharge the powers and duties of his office. The conference report provides that the period of time for the transmittal of the letter must be within 4 days.

The Senate provision did not provide for the convening of the Congress to decide this issue if it was not in session; the House provided that the Congress must convene for this specific purpose of deciding the issue within 48 hours after the receipt of the written declaration that the President is still disabled. The conference report adopts the language of the House.

The Senate provision placed no time limitation on the Congress for determining whether or not the President was still disabled. The House version provided that determination by the Congress must be made within 10 days after the receipt of the written declaration of the Vice President and a majority of the principal officers of the executive departments, or such other body as Congress may by law provide. The conference report adopts the principle of limiting the period of time within which the Congress must determine the issue, and while the House original version was 10 days and the Senate version an unlimited period of time, the report requires a final determination within 21 days. The 21-day period, if the Congress is in session, runs from the date of receipt of the letter. It further provides that if the Congress is not in session the 21-day period runs from the time that the Congress convenes.

A vote of less than two-thirds by either House would immediately authorize the President to assume the powers and duties of his office.

EMANUEL CELLER,
BYRON G. ROGERS,
JAMES C. CORMAN,
WILLIAM M. MCCULLOCH,
RICHARD H. POFF,
Managers on the Part of the House.

SUBCOMMITTEE ON LABOR, COMMITTEE ON EDUCATION AND LABOR

Mr. ALBERT. Mr. Speaker, I have three unanimous-consent requests. First

I ask unanimous consent that the Subcommittee on Labor of the Committee on Education and Labor may sit while the House is in session today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

Mr. GERALD R. FORD. Mr. Speaker, reserving the right to object, has this been cleared with the subcommittee ranking minority member?

Mr. ALBERT. I have been advised that it has been cleared with the gentleman from Ohio [Mr. AYRES] and the gentleman from California [Mr. LEGGETT].

Mr. GERALD R. FORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

SUBCOMMITTEE ON IMMIGRATION, COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration of the Committee on the Judiciary may sit while the House is in session today during general debate. I have been advised it has been cleared with the gentleman from Ohio [Mr. MCCULLOCH].

Mr. HALL. Mr. Speaker, I object.

SUBCOMMITTEE NO. 3 ON COPYRIGHTS, COMMITTEE ON THE JUDICIARY

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that Subcommittee No. 3 on Copyrights of the Committee on the Judiciary may sit while the House is in session during general debate on Wednesday, June 30, I understand this has been cleared.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

TRANSFERRING CALL OF CONSENT CALENDAR, MOTIONS TO SUSPEND RULES AND CALL OF PRIVATE CALENDAR

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the call of the Consent Calendar and the authority for the Speaker to recognize for motions to suspend the rules, in order on July 5, 1965, may be transferred to Monday, July 12, 1965; and that the call of the Private Calendar, in order on Tuesday, July 6, 1965, may be transferred to Tuesday, July 13, 1965.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 159]

Ashley	Holland	Resnick
Baring	Keogh	Roosevelt
Bonner	King, Calif.	Scheuer
Boyd	Lindsay	Springer
Brown, Ohio	Long, Md.	Teague, Tex.
Broyhill, Va.	Martin, Mass.	Thomas
Dent	Miller	Toll
Evins, Tenn.	Morse	Tupper
Green, Oreg.	Morton	Utt
Harvey, Ind.	Moss	Willis
Hays	Powell	
Holifield	Reinecke	

The SPEAKER. On this rollcall 399 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

GENERAL LEAVE TO EXTEND

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend or to revise their remarks on the housing bill and to include any germane extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUSING AND URBAN DEVELOPMENT ACT OF 1965

Mr. PATMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 7984) to assist in the provision of housing for low- and moderate-income families, to promote orderly urban development, to improve living environment in urban areas, and to extend and amend laws relating to housing, urban renewal, and community facilities.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 7984, with Mr. FLOOD in the chair.

The CHAIRMAN. When the Committee rose on yesterday the gentleman from Texas [Mr. PATMAN] had 1 hour and 39 minutes remaining. The gentleman from New Jersey [Mr. WIDNALL] had 2 hours and 4 minutes remaining.

Mr. PATMAN. Mr. Chairman, I yield 15 minutes to the gentlewoman from Missouri [Mrs. SULLIVAN].

(Mrs. SULLIVAN asked and was given permission to revise and extend her remarks.)

MEETING NEW PROBLEMS IN AMERICAN HOUSING

Mrs. SULLIVAN. Mr. Chairman, as the ranking member of the Subcommittee on Housing of the Committee on Banking and Currency, I am proud of the hard work which has gone into this legislation, and I am going to support the bill. For many years, we had Representative ALBERT RAINS, of Alabama, as the chairman of our subcommittee, painstakingly developing the concepts of our steadily widening and improving housing legislation, and when he decided last year not to run for reelection, we all felt keenly disappointed that we would no longer have his excellent leadership on housing legislation. But it is the strength of our system of Government that when the mantle of responsibility is passed, we characteristically build on what is already there, not tear down and try to start over. In that spirit, the gentleman from Pennsylvania, Mr. BARRETT, has succeeded to the chairmanship of the subcommittee and has done an outstanding job of building on the foundations of the accomplishments and achievements of this subcommittee during the years which went before. I salute him, Mr. Chairman, for his energy and devotion on this legislation.

Mr. Chairman, this is a good bill. It is a big bill, with many important provisions, but like most of our housing legislation of the past, it only succeeds in doing part of the job. For the job is a constantly expanding one. It is never finished. We do not have a static population and we do not have static communities. No housing bill, no matter how comprehensive, can possibly solve all of the problems involved in the housing of our people. We must meet new problems as they arise. This bill tackles some of those new problems, and also improves our handling of some of the older problems we've been trying to cope with in this field.

My great concern during the hearings on this bill, and a continuing interest of mine for years, has been the urgent necessity of assuring adequate housing for low- and medium-income families, and for the elderly. A major test of a good housing bill, to my mind, is how well it meets these problems.

CITIES HAVE LARGER PERCENTAGES OF LOW-INCOME FAMILIES

There are good reasons for this concern.

We have become acutely aware during the past few years that, in spite of a booming national economy, one out of every six families in our country still lives in substandard housing. Three-fourths of these families have incomes of less than $4,000 a year. This is a national figure.

But in many of our large central cities the problem is even more acute. As higher income families move to the open spaces of the suburbs, an increasing number of the poor and the disadvantaged come from rural areas to the central city. The city of St. Louis has been particularly effected by this changing population pattern. Almost 40 percent of the households in my city—about 100,000 families out of 238,000—have a net income of less than $4,000 annually and over 21 percent of the households have a net income of less than $2,500 a year. That is one family out of five in St. Louis, with incomes of less than $50 a week, and two out of five with incomes of less than $80 a week. Too many of them live in very bad housing.

into law, take all appropriate steps through diplomatic channels and other means that may be available to the Department in opposing restrictive trade practices or boycotts against a country friendly to the United States.

The letter also expresses approval of the additional language, similar to that offered by the Senator from New York. The differences between the language set forth in the letter and the language of the amendment actually offered by the Senator from New York are technical and do not change the substance of the amendment. So the letter of the Secretary of Commerce can be construed as approving the amendment of the Senator from New York. As the manager of the bill, I am willing to accept that language on behalf of the Senate committee.

Mr. JAVITS. Mr. President, I yield myself an addition minute.

When the Senator amends his remarks, he will say "The Senator from New York and the Senator from New Jersey and the cosponsors."

Senator MUSKIE. I shall indeed be glad to recognize the devoted and effective efforts of the Senator from New Jersey [Mr. WILLIAMS] in support of this amendment.

Mr. JAVITS. I should like to ask the Senator from Maine a question, if I may have his attention, because this is an important point.

I consider this to be a very meaningful plan to be implemented and to have a material effect on stopping the Arab boycott against American firms, because the Secretary of Commerce will be notified by every firm which could be reached by the boycott. That will be required by law. Therefore, the Secretary will be in a position to act.

In view of the fact that this is a really meaningful step forward in trying to end the Arab boycott of American firms, unreasonable and immoral, as I have described it, I ask the Senator from Maine this question:

If the House does not accept the bill—I believe it will, and it certainly should—as we have passed it, and if it becomes necessary to go to conference, will the Senator from Maine assure the Senate that if there is to be any change in any of the amendments or this plan, he will not agree but will bring the bill back to the Senate?

Mr. MUSKIE. If I correctly understand it, the request of the Senator from New York is that the bill as approved by the Senate with the amendment which he has offered should be insisted upon in conference.

Mr. JAVITS. The Senator is exactly correct; and the Senator will bring it back to the Senate if he cannot have the amendment agreed to in conference.

Mr. MUSKIE. I agree to that.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. JAVITS. I yield back the rest of my time.

The PRESIDING OFFICER. Does the Senator from Maine yield back the remainder of this time?

Mr. MUSKIE. I yield back the remainder of his time?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. JAVITS. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. MUSKIE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOCIAL SECURITY AMENDMENTS OF 1965

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6675, the so-called medicare bill.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 6675) to provide a hospital insurance program for the aged under the Social Security Act with a supplementary health benefits program and an expanded program of medical assistance, to increase benefits under the old-age, survivors, and disability insurance system, to inmprove the Federal-State public assistance programs, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, the purpose of having the bill laid before the Senate is to have it as the pending business before the Senate starts the Fourth of July recess tomorrow. No votes will be taken on the bill today or tomorrow, and it is not anticipated that action of any kind will be taken. But beginning with the return of the Senate next Tuesday, the bill will be the pending business and the Senate should be prepared to move with expedition.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES; FOR COMMITTEES TO FILE REPORTS; AND FOR SIGNING OF DULY ENROLLED BILLS AND JOINT RESOLUTIONS DURING THE ADJOURNMENT OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate, following today's session, until July 1, 1965, the Secretary of the Senate be authorized to receive messages from the President of the United States and the House of Representatives; that committees be authorized to file reports; and that the Vice President, President pro tempore, or Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes it business today, it adjourn until 10 o'clock tomorrow morning.

It is my understanding that at that time the distinguished Senator from Oregon [Mr. MORSE] desires to have the floor, and that he will be followed by the distinguished Senator from Utah [Mr. Moss], with some of the time in between to be used by the distinguished Senator from Ohio [Mr. YOUNG].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Bill file

PRESIDENTIAL INABILITY AND VACANCIES IN THE OFFICE OF THE VICE PRESIDENT—CONFERENCE REPORT

The Senate resumed the consideration of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I ask unanimous consent that further action on the pending conference report be postponed until Tuesday next and that at the conclusion of the routine morning business on Tuesday next there be 2 hours of debate on the conference report, the time to be equally divided between the chairman of the subcommittee, the distinguished Senator from Indiana [Mr. BAYH], and the distinguished senior Senator from Tennessee [Mr. GORE].

Mr. GORE. Mr. President, reserving the right to object—and I shall not object—in the event that one-third of the Senate plus one wished to have the proposed constitutional amendment returned to conference, the only way that purpose could be accomplished would be to reject the conference report. That could be accomplished by a nay vote of one-third plus one of Senators voting. The House could then be asked for a further conference.

I do not wish to announce that either I or the senior Senator from Minnesota [Mr. McCarthy] or any other Senator will desire so to act. I expect to study the proposed contitutional amendment between now and next Tuesday. It is my hope, as of now, that the amendment will not ultimately be defeated. I would much prefer to see the language explicitly provide what the authors say is intended. But I have entered into this agreement and believe that in the event it is desired to return the amendment to conference, it can be accomplished if two-thirds of the Senate wish to ratify it as it is, regardless of what the minority might wish. That purpose could be accomplished. I shall be amenable to the decision of the Senate.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. I should like to say to the Senator from Tennessee that there will be a yea-and-nay vote.

The unanimous-consent agreement reduced to writing, is as follows:

UNANIMOUS-CONSENT AGREEMENT

Ordered, That effective on Tuesday, July 6, 1965, at the conclusion of the routine morning business, further consideration of the conference report on S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to succession to the Presidency and Vice-Presidency and to cases where the President is unable to discharge the powers and duties of his office, be limited to 2 hours of debate to be equally divided and controlled by the Senator from Indiana (Mr. Bayh) and the Senator from Tennessee (Mr. Gore).

JUNE 30, 1965.

TWENTIETH ANNIVERSARY OF THE UNITED NATIONS

Mrs. SMITH. Mr. President, this past week marked the 20th anniversary of the United Nations. It was an occasion with mixed feelings and emotions. Even many of its supporters would admit that in recent years the United Nations had fallen far short of the original hopes for it. It had not produced peace in the degree that was optimistically hoped for 20 years ago.

It was floundering on a financial issue in which some key members refused to pay their dues. It had proved so inept and moribund in coping with international aggression that the President of the United States had repeatedly bypassed it in coping with such crises as Vietnam and the Dominican Republic.

On the occasion of its 20th birthday, the United Nations was at its most vulnerable point to the criticism that it was only a debating society. Added to this criticism was the charge that it was growing subservient to young, immature small nations that belligerently demanded and got authority and power far beyond their right and even their ability to carry wisely and well—and yet, without appropriately accompanying responsibility with such authority.

Members were not paying their dues—there was open resentment by the Organization of American States at the attempted intervention of the United Nations in the Dominican controversy—big powers courting small nations were stooping below the dignity of responsible nations and in doing so were inviting contempt from the very small nations they were courting. In short, the tail was wagging the dog—a trembling, shaky dog unsteadied by its tail—the small nations.

But if the United Nations in its 20th year had its grave weaknesses and had disappointingly fallen far short of the original hopes held for it, there were some achievements that the 20 years had produced. For one thing, the United Nations in comparison with the ill-fated League of Nations was a giant in international strength and influence. The mere fact that it had survived was proof enough of this.

True was the charge that it had disappointingly failed to bring peace in the measure it should. But undeniably, it had brought some measure of peace. While an undeclared war was being fought in South Vietnam, while the Russian ravage of Hungary was unchallenged by the United Nations, the United Nations had played a very vital role in resisting the invasion of South Korea and in bringing about a peaceful cease-fighting status there, however unsatisfactory the compromise might have been.

And while it was true to a great degree that the United Nations had been hardly more than a debating society in a wind tunnel of acrimonious oratory and polemics, nevertheless it had achieved a major accomplishment in that very role in that it had kept men talking and debating more often than fighting and shooting. On balance it was a definite plus and certainly not the tragic negative that its enemies claimed.

For without doubt, the United Nations had been a potent factor in the once easing of the cold war and the development of better relations between the United States and Russia—and it had been a factor in preventing general war. And while it was experiencing its most unsteady period in its 20 years of existence, the United Nations was not about to go down for the count as did the League of Nations after 20 years.

United Nations intervention in the Korean conflict was perhaps its greatest achievement. But in all honesty, we must recognize that it was the fortuitous circumstance of a Russian boycott of the U.N. Security Council at the time. Had not Russia so boycotted the Security Council at that time but instead had been present to vote, undoubtedly Russia would have exercised her veto power and thus prevented the United Nations from intervening and going to the defense of South Korea.

It is in this context that critics of U.S. intervention in the Dominican Republic crisis should view President Johnson's circumvention of the United Nations. This has an ironic note for it has been generally acknowledged that Lyndon Johnson has eagerly sought to be a President by consensus and to create the national image of being a consensus President.

Yet, in the international crises of Vietnam and the Dominican Republic, President Johnson has gone in the opposite direction of consensus for he has not sought the consensus of even our friendly allies, much less the slow and cumbersome Organization of American States and the veto-plagued United Nations.

This points up the great difference in the past between the free world and the Communist world. Because the member nations of the free world have acted by consensus reached only after considerable debate and time, the free world has moved so tragically slower than the Communist world in time of crises—and Communist-created crises at that. In contrast, the Communist world has moved swiftly and precisely because the Kremlin did not bother with a consensus but instead simply issued orders. The end result in the conflict was that we of the free world were always only taking counteraction while the Communist world sustained its advantage of initiative.

With the split between Russia and Red China this Communist advantage is not the power it once was. The question is whether the Vietnam war will end that split.

The difficulty of consensus among the allies of the free world is no better illustrated than in the person of French President Charles de Gaulle. Getting his approval for unified policy and action has been very difficult at best and impossible at worst. Yet, how many of us would do any differently if we were in his shoes? His prime objective is to raise a twice-conquered France again to a first-rate power. And he has had, thus far, considerable success. Would any of us do any less for our own country?

Yet, by the same token, can Lyndon B. Johnson thus be blamed for not practicing internationally the consensus image which he seeks back in his own country? Can we say that he is wrong in bypassing the United Nations—or in not seeking the approval of Charles de Gaulle—on our policy in Vietnam where the French Government itself failed so miserably?

Placed in the background of the Korean war, we see today a much different mental climate and public attitude. Very, very few Americans opposed our defense of South Korea. Ironically enough, there were a rare few national leaders then who condemned our intervention in South Korea but who now defend and support our intervention in Vietnam. Some observe that the seemingly contradictory pattern is because of a political loyalty to President Johnson by these unhappy defenders.

But back in the days of the Korean war, there was practically no call by the academic world that we pull out of Korea and surrender it to the Communist invaders from North Korea and China. Yet, today the depth and breadth of the demand of the professors and students for a pullout from South Vietnam is symbolized by the new technique of "teach-ins."

This is not to say that there was no public opinion in favor of stopping the shooting in the Korean war. To the contrary, there was a strong move on the part of mothers and wives to stop the